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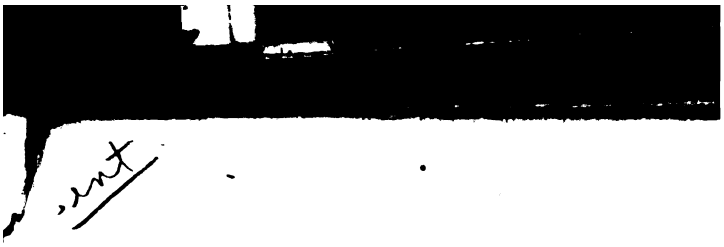

THE

EXECUTIVE DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

SECOND SESSION OF THE FIFTY-THIRD CONGRESS.

1893-94.

Volume 1.—Nos. 1 to 74, inclusive, except No. 19, parts 1 and 2, and No. 36.
Volume 2.—No. 19, parts 1 and 2, Coast and Geodetic Survey.
Volume 3.—No. 36, Proceedings of the Pan-American Medical Congress.
Volume 4.—Nos. 75 to 176, inclusive, except Nos. 97 and 119.
Volume 5.—No. 97, Des Moines River Land Grant.
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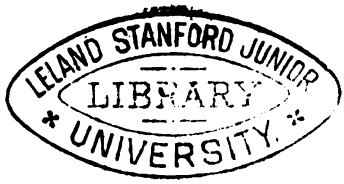

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53D CONGRESS, 2d Session. } SENATE. { Ex. Doc. 177, Part 4.

FUR SEAL ARBITRATION.

PROCEEDINGS

OF THE

TRIBUNAL OF ARBITRATION,

CONVENED AT PARIS

UNDER THE

TREATY BETWEEN THE UNITED STATES OF AMERICA AND GREAT BRITAIN CONCLUDED AT WASHINGTON FEBRUARY 29, 1892,

FOR THE

DETERMINATION OF QUESTIONS BETWEEN THE TWO GOVERNMENTS CONCERNING THE JURISDICTIONAL RIGHTS OF THE UNITED STATES

IN THE

WATERS OF BERING SEA.

VOLUME IV.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1895.

CASE PRESENTED

ON THE PART OF THE

GOVERNMENT OF HER BRITANNIC MAJESTY

TO THE

TRIBUNAL OF ARBITRATION

CONSTITUTED

UNDER ARTICLE I OF THE TREATY CONCLUDED AT WASHINGTON ON THE 29TH FEBRUARY, 1892,

BETWEEN

HER BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1895.

GENERAL CONTENTS.

The case now submitted to the Arbitrators on the part of the Government of Her Britannic Majesty contains a statement of the facts which that Government considers to be material to enable the Arbitrators to arrive at a just conclusion upon the points submitted to them by the Treaty of Arbitration.

It contains also some general propositions which that Government believes to be in accordance with the established principles of International Law, and upon which it intends to rely.

The case is arranged as follows:

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The appendix to the case consists of four volumes, the contents of which are as follows:

Vol. I. Miscellaneous documents quoted in the case.

Vol. II, Part 1. Selections from correspondence between Great Britain and Russia, 1821-1825.

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Part 3. Treaties: Russia and United States, 1824; Great Britain and Russia, 1825; Russia and United States, 1867.

Vol. III. Correspondence respecting the Behring Sea seal fisheries. Papers presented to the British Parliament. Treaty and convention between Great Britain and the United States of February 29 and April 18, 1892.

Vol. IV, Part 1. Map of the northwest coasts of America and the Aleutian and Kurile islands, published in the quartermaster-general's department, St. Petersburg, 1802.

Part 2. Map of the northern portion of the North Pacific Ocean.

1 CASE PRESENTED ON BEHALF OF THE GOVERNMENT OF HER BRITANNIC MAJESTY TO THE TRIBUNAL OF ARBITRATION.

INTRODUCTORY STATEMENT.

The differences between Great Britain and the United States of America, the subject of this Arbitration, arise out of claims by the United States of America to prevent and interfere with British vessels fishing in the waters of Behring Sea other than the territorial waters thereof.

Prior to the year 1886 British vessels had, in common with the vessels of the United States and those of other nations, navigated and fished in the non-territorial waters of Behring Sea without interference.

SEIZURES OF BRITISH SHIPS.

In 1886 the British schooner "Thornton" was arrested when fishing 70 miles south-east of St. George Island, the nearest land.

The vessel was libelled in the United States District Court of Alaska by the District Attorney, the charge formulated being that the vessel was "found engaged in killing fur seals within the limits of Alaska Territory and in the waters thereof, in violation of Section 1956 of the Revised Statutes of the United States."

The vessel was condemned, and the master and mate were imprisoned and fined.

The British schooners "Carolena" and "Onward" were seized about the same time when fishing under similar circumstances, and were subsequently condemned by the District Court.

2 The Judge (in summing up the case of the "Thornton") ruled that the law above mentioned applied to all the waters of Behring Sea east of 193° of west longitude.

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, pp. 120-130; Blue Book, United States, No. 2, 1890, pp. 2, 19, 30; see Appendix, Vol. III.

Certain other vessels were all also subsequently seized in non-territorial waters, and the fishing of British vessels was interfered with under the circumstances hereinafter stated.

Great Britain protested against this action on the part of the United States, and negotiations took place, which eventually resulted in the Treaty and Convention entered into at Washington on the 29th February and the 18th April, 1892.

The Treaty is as follows:

TREATY OF 1892.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous to provide for an amicable settlement of the questions which have arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, have resolved to submit to arbitration the questions involved, and to the end of concluding a Convention for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The questions which have arisen between the Government of Her Britannic Majesty and the Government of the United States concerning the jurisdictional rights of the United States in the waters of Behring Sea, and concerning also the preservation of the fur seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur seal in or habitually resorting to the said waters, shall be submitted to a Tribunal of Arbitration, to be composed of seven Arbitrators, who shall be appointed in the following manner, that is to say: two shall be named by Her Britannic Majesty; two shall be named by the
3 President of the United States; his Excellency the President of the French Republic shall be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy shall be so requested to name one; and His Majesty the King of Sweden and Norway shall be so requested to name one. The seven Arbitrators to be so named shall be jurists of distinguished reputation in their respective countries; and the selecting Powers shall be requested to choose, if possible, jurists who are acquainted with the English language.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of any or either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, as the case may be, shall name, or shall be requested to name forthwith, another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the joint request from the High Contracting Parties of his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, to name an Arbitrator, either to fill the original appointment or to fill a vacancy as above provided, then in such case the appointment shall be made or the vacancy shall be filled in such manner as the High Contracting Parties shall agree.

ARTICLE II.

The Arbitrators shall meet at Paris within twenty days after the delivery of the counter cases mentioned in Article IV, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

ARTICLE III.

The printed Case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding four months from the date of the exchange of the ratifications of this Treaty.

4 ARTICLE IV.

Within three months after the delivery on both sides of the printed Case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, however, in consequence of the distance of the place from which the evidence to be presented is to be procured, either party shall, within thirty days after the receipt by its Agent of the case of the other party, give notice to the other party that it requires additional time for the delivery of such counter case, documents, correspondence, and evidence, such additional time so indicated, but not exceeding sixty days beyond the three months in this Article, provided, shall be allowed.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any Report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the Case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE V.

It shall be the duty of the Agent of each party, within one month after the expiration of the time limited for the delivery of the counter case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of counsel; and the arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI.

QUESTIONS FOR THE DECISION OF THE TRIBUNAL.

In deciding the matters submitted to the Arbitrators, it is agreed that the following five points shall be submitted to them, in order that their award shall *embrace* a *distinct* decision upon *each of said five points*, to wit:

1. What exclusive jurisdiction in the sea now known as the Behring Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

5 2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring Sea, *were held and exclusively* exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?

ARTICLE VII.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

ARTICLE VIII.

The High Contracting Parties having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

ARTICLE IX.

The High Contracting Parties having agreed to appoint two Commissioners on the part of each Government to make the joint investigation and Report contemplated in the preceding Article VII,
6 and to include the terms of the said Agreement in the present Convention, to the end that the joint and several Reports and recommendations of said Commissioners *may be in due form submitted to the Arbitrators, should the contingency therefor arise*, the said Agreement is accordingly herein included as follows:

Each Government shall appoint two Commissioners to investigate, conjointly with the Commissioners of the other Government, all the facts having relation to seal life in Behring Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that *the contingency of their being used by* the Arbitrators can not arise.

ARTICLE X.

Each Government shall pay the expenses of its members of the Joint Commission in the investigation referred to in the preceding article.

ARTICLE XI.

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

ARTICLE XII.

Each Government shall pay its own Agent, and provide for the proper remuneration of the counsel employed by it and of the Arbitrators appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE XIV.

The High Contracting Parties engage to consider the result of
7 the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XV.

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 29th day of February, 1892.

[L. S.] JULIAN PAUNCEFOTE.
[L. S.] JAMES G. BLAINE.

OUTLINE OF ARGUMENT.

The general outline of the argument submitted to the Tribunal of Arbitration on behalf of Great Britain will be as follows:

That Behring Sea, as to which the question arises, is an open sea in which all nations of the world have the right to navigate and fish, and that the rights of navigation and fishing cannot be taken away or restricted by the mere declaration or claim of any one or more nations; they are natural rights, and exist to their full extent unless specifically modified, controlled, or limited by Treaty.

That no mere non-user or absence of exercise has any effect upon, nor can it in any way impair or limit such rights of nations in the open seas. They are common rights of all mankind.

In support of these principles, which are clearly established, and have never been seriously disputed by jurists, authorities will be cited.

That in accordance with these principles, and in the exercise of these rights, the subjects and vessels of various nations did from the earliest times visit, explore, navigate, and trade in the sea in question, and that the exercise of these natural rights continued without any attempted interference or control by Russia down to the year 1821.

8 That in 1821 when Russia did attempt by Ukase, *i. e.*, by formal declaration, to close to other nations, the waters of a great part of the Pacific Ocean (including Behring Sea) Great Britain and the United States immediately protested against any such attempted interference, maintaining the absolute right of nations to navigate and fish in the non-territorial waters of Behring Sea and other non-territorial waters of the Pacific Ocean. Both countries asserted that these rights were common national rights, and could not be taken away, or limited by Ukase, Proclamation, or Declaration, or otherwise than by Treaty.

That in the years 1824 and 1825, in consequence of these protests, Russia unconditionally withdrew her pretensions, and concluded Treaties with the United States and with Great Britain which recognized the rights common to the subjects of those countries to navigate and fish in the non-territorial waters of the seas over which Russia had attempted to assert such pretensions.

That from the date of such Treaties down to the year 1867, (in which year a portion of the territories which had been referred to in and affected by the Ukase of Russia in the year 1821, was purchased by and ceded to the United States), the vessels of several nations continued, year by year, in largely increasing numbers, to navigate, trade, and fish in the waters of Behring Sea, and that during the whole of that period of nearly fifty years there is no trace of any attempt on the part of Russia to reassert or claim any dominion or jurisdiction over the non-territorial waters of that sea, but, on the contrary, the title of all nations to navigate, fish, and exercise all common rights therein was fully recognized.

That on the purchase and acquisition of Alaska by the United States in the year 1867, the United States were fully aware and recognized that the rights of other nations to navigate and fish in the non-territorial waters adjacent to their newly acquired territory, existed in their full natural state, unimpaired and unlimited by any Treaty or bargain whatever.

That, from the year 1867 down to the year 1886, the United States, while they lawfully and properly controlled and legislated for the shores and territorial waters of
9 their newly acquired territory, did not attempt to restrict or interfere with the rights of other nations to navigate and fish in the non-territorial waters of Behring Sea or other parts of the Pacific Ocean.

That, under changed conditions of territorial ownership, and in view of certain new circumstances which had arisen in consequence of the growth of the industry of pelagic sealing in non-territorial waters, the United States reverted, in the first instance, to certain claims based upon those of the Russian Ukase of 1821, which the United States, together with Great Britain, had successfully contested at the time of their promulgation; but in the course of the discussions which have arisen, these exceptional claims to the control of non-territorial waters were dropped, and in

their place various unprecedented and indefinite claims put forward, which appear to be based upon an alleged property in fur seals as such.

Finally, that while Great Britain has from the first strenuously and consistently opposed all the foregoing exceptional pretensions and claims, she has throughout been favourably disposed to the adoption of general measures of control of the fur seal fishery, should these be found to be necessary or desirable with a view to the protection of the fur seals, provided that such measures be equitable and framed on just grounds of common interest, and that the adhesion of other Powers be secured, as a guarantee of their continued and impartial execution.

ARRANGEMENT OF CASE.

It will be convenient to state the arrangement and order of the Case here presented on behalf of Great Britain.

ARTICLE VI.

The first three points of Article VI are as follows:

1. What exclusive jurisdiction in the sea now known as the Behring Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and excercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring Sea, were held and exclusively exercised by Russia after said Treaty?

It is proposed in the first instance to deal with these points, which relate to the original claims by Russia to certain rights in Behring Sea, and the action of Great Britain respecting these claims.

HEADS OF ARGUMENT.

The questions therein raised will be considered under the following heads:

(A.) The user up to the year 1821 of Behring Sea and other waters of the North Pacific. — Chapter I. Head A.

(B.) The Ukase of 1821 and the circumstances connected therewith leading up to the Treaties of 1824 and 1825. — Chapter II. Head B.

(C.) The question whether the body of water now known as Behring Sea is included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia. — Chapter III. Head C.

(D.) The user of the waters in question from 1821 to 1867. — Chapter IV. Head D.

It is then proposed to consider point 4 of Article VI, which is as follows:

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

This point will be considered under the following heads:

Chapter V. Head E. (E.) What rights passed to the United States under the Treaty of Cession of March 30, 1867.

Chapter VI. Head F. (F.) The action of the United States and Russia from 1867 to 1886.

Chapter VII. Head G. (G.) The various contentions advanced by the United States since the year 1886.

Point 5 of Article VI is as follows:

Chapter VIII Article VI, Point 5.

5. Has the United States any right, and, if so, what right, of protection or property in the fur seals frequenting the islands of
11 the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?

This will be briefly considered, but the proposition which appears to be embodied in this question is of a character so unprecedented that, in view of the absence of any precise definition, it is impossible to discuss it at length at the present time. It will, however, be treated in the light of such official statements as have heretofore been made on the part of the United States, its discussion in detail being necessarily reserved till such time as the United States may produce the evidence or allegations upon which it relies in advancing such a claim.

Article VII is as follows:—

ARTICLE VII.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

The terms of this Article make it necessary that the consideration of any proposed Regulations should be postponed until the decision of the Tribunal has been given on the previous questions.

Beyond, therefore, demonstrating that the concurrence of Great Britain is necessary to the establishment of any Regulations which have for their object the limitation or control of the rights of British subjects in regard to seal fishing in non-territorial waters, it is not proposed to discuss the question of the proposed Regulations, or the nature of the evidence which will be submitted to the Tribunal.

Article VIII. With regard to the points raised under Article VIII
12 (which refer to questions arising out of claims for damages), it will be contended on behalf of Great Britain that the seizure of the ships was unlawful, and the Arbitrators will be asked to find that in each case the seizure took place in non-territorial waters, that such seizures were made with the authority and on behalf of the Government of the United States, and that the amounts of damages which Great Britain is entitled to claim on behalf of the owners, masters, and crews are the respective amounts *stated in the* Schedule of particulars appended to this Case.

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CHAPTER I.

HEAD A.—*The User, up to the year 1821, of the Waters of Behring Sea and other Waters of the North Pacific.*

It is shown in the following series of historical notes, chronologically arranged, that the waters subsequently included in the claim made by Russia under the Ukase of 1821, had been freely navigated over, and frequented for purposes of trade and for other purposes, by ships of various nations, from the earliest times. Further, that the discovery and exploration of these waters and the coasts and islands washed by them, was largely due to the navigators of various nations, and in particular to those of Great Britain.

AREA TO BE CONSIDERED.

The waters affected by the Russian Ukases of 1799 and 1821* include not only the entire area of Behring Sea (though that sea is not specifically mentioned by any name in either Ukase), but also other parts of the Pacific Ocean, and in considering the nature of the user of the waters now in question, the entire area affected by the Ukase of 1821 is included, the facts relating to all parts of this area being of equal significance.

It will be noted in this connection that the limit claimed under the Ukase extended southward to the 51st parallel of north latitude on the American coast; and that, therefore, any events occurring to the north of 54° 40′, which is the southernmost point of the territory now known as Alaska, are well within this limit.

"PACIFIC OCEAN."

The Pacific Ocean as a whole, was, in the last century and in the earlier part of the present century, variously named the *Pacific*, or *Great Ocean* or *South Sea*, the last name arising from the circumstance that it had been reached by sailing southward round the Cape of Good Hope or Cape Horn.

"BEHRING SEA."

Behring Sea is, and was at the time of the negotiations which arose immediately on the promulgation of the Ukase of 1821, recognized by geographers as a part of the
14 Pacific Ocean. The name by which it is now known is that of the navigator Behring, but in earlier times it was often named the Sea of Kamtchatka.

DESCRIPTION OF BEHRING SEA.

The sea washes the northern parts of the coasts of North America and of Asia, and is regarded as extending from Behring Strait on the north to the Aleutian and Commander Islands on the south. Its area is at least two-thirds of that of the Mediterranean, and more than twice

* The text of the Ukase *of 1799 will* be found at p. 25 of this Case; that *of the Ukase of 1821 at p. 37.*

that of the North Sea, while its extreme width is 1,260 miles. From north to south it extends over about 14° of latitude, or more than 800 miles.

From the south it is approached by numerous open seaways, one of which is 175 miles wide, another 95 miles, five more from 55 to 22 miles, and very many of smaller width.

On the north, it communicates with the Arctic Ocean by Behring Strait, 48 miles in width.

Behring Sea is the common highway to the Arctic Ocean with its valuable fisheries. It is Great Britain's highway to her possessions in the north viâ the Yukon River (of which the free navigation is guaranteed by Treaty), as well as the route for such communication as may be held or attempted with the northern parts of the coasts of North America to the east of Alaska, and with the estuary of the great Mackenzie River.

Treaty of Washington, May 8, 1871, Article XXVI.

HISTORICAL OUTLINE.

In 1728 and 1729, Behring, in his first expedition, outlined, somewhat vaguely, the Asiatic coast of Behring Sea, and practically proved the separation of the Asiatic and American continents.

Bancroft, History of Alaska, p. 37.*

In 1741, Behring's second expedition, which sailed from Okhotsk, resulted in the discovery of the American coast.

Ibid., pp. 63–74.

Unsatisfactory as the voyages of Behring and his associate Chirikof undoubtedly were from a geographical point of view, it was upon their results that Russia chiefly based her subsequent pretensions to the ownership of the north-western part of North America.

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Hunters and traders followed Behring's lead, and Behring Island, and various islands of the Aleutian chain, were visited from the Kamtchatkan coast.

In 1763, Glottof, on a trading voyage, ventured as far east as Kadiak Island.

Alaska, p. 141.

In 1764 to 1768, Synd, a Lieutenant of the Russian navy, made an expedition along the coast to Behring Strait.

Ibid., pp. 157, 158.

Of the period from 1769 to 1779, Bancroft writes in his History of Alaska:

> From this time to the visit of Captain Cook, single traders and small Companies continued the traffic with the islands in much the same manner as before, though a general tendency to consolidation was perceptible.

Ibid., p. 174.

The extension of Russian influence did not pass unnoticed by Spain, and in 1774 Perez was dispatched from Mexico on a voyage of exploration, in which he reached the southern part of Alaska.

Ibid., pp. 194–197.

In 1775, Heceta, also instructed by the Viceroy of Mexico, explored the coast of America as far north as the 57th or 58th degree of latitude, taking possession of that part of the continent in the name of Spain.

Ibid., p. 197.

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* This work will be referred to throughout these pages by the short title of "Alaska."

For the period discussed in this Chapter reference may be made generally to "Lyman's Diplomacy of the United States," 2nd edition, Boston, 1828, vol. ii, chapter II.

In 1778, Captain Cook, sent by the English Government, reached the American coast of the North Pacific with two vessels. Cook, Voyage to the Pacific Ocean, 1776-1780, London, 1874.

In pursuance of his instructions, he explored the coast from about 44° of north latitude as far as the region of Prince William Sound and Cook River or Inlet, taking possession of the coasts there. At Cook Inlet he found evidence of Russian trade but no Russians. At Unalaska, one of the Aleutian Islands, he again heard of the Russians, and on the occasion of a second visit met Russian traders. From Unalaska he sailed eastward to Bristol Bay, landing and taking possession. From this he explored, and defined the position of the American coast northward as far as Icy Cape, beyond Behring Strait.

Cook was killed in the following winter at the Sandwich Islands, but his ships, under Clarke, returned in 1779 and made further explorations in Behring Sea and in the Arctic Ocean.

Under this expedition, and for the first time, the
16 main outlines of the north-western part of the Continent of America, and particularly those of the coast about Prince William Sound and Cook Inlet, with the eastern coast of Behring Sea, were correctly traced.

This expedition also opened up the trade by sea in furs from the north-western part of America to China.

Cook's surveys still remain in many cases the most authentic; and these, with other results of the expedition were published in full in 1784.

In 1779, another officially accredited Spanish expedition under Arteaga and Quadra, explored part of the coast northward from about latitude 55°, and westward to Mount St. Elias. Alaska, pp. 217-221.

In 1783, the first attempt was made, following Cook's discoveries, to establish a Russian trading post on the American mainland, at Prince William Sound. It ended disastrously. Ibid., p. 186.

For some years after this reverse only one small vessel was dispatched from Siberia for trading purposes; but in 1784, Shelikof visited Unalaska and reached Kadiak Island, with the intention of effecting a permanent occupation there. Ibid., p. 191. Ibid., p. 224.

In 1785, Captain Hanna entered into the trade between the north-west coast of America and China, for which Captain Cook's expedition had shown the way. He made a second voyage in the following year, but appears to have confined his trading operations to the vicinity of the northern part of Vancouver Island. Other commercial adventurers were, however, practically contemporaneous with Hanna, and this year is an important one in connection with the whole region. Bancroft, History of the North-west Coast, Vol. I, pp. 173, 174.*

The "Captain Cook" and "Experiment," from Bombay, traded at Nootka and at Prince William Sound. Alaska, p. 243.

An English vessel, the "Lark," Captain Peters, from Sauer's account of Billing's expedition, London, 1802, pp. 279, 281.

* This work will be referred to throughout these pages by the short title of "North-west Coast."

Bengal via Malacca and Canton, after trading at Petropaulovsk in Kamtchatka, sailed for Copper Island with the supposed purpose, as alleged, of obtaining a cargo of copper there. She was wrecked on the Commander Islands.

In the same year, 1786, Portlock and Dixon, and Meares, arrived upon the American coast, and traded and explored far to the northward. These voyages are important, because detailed accounts of both were published, in 1789 and 1790 respectively, while the voyages of other traders have generally not been recorded.

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A Voyage round the World, &c., London, 1789.

Portlock and Dixon, who had sailed from London in 1785 in the "King George" and "Queen Charlotte," in 1786, first visited Cook Inlet, where they found a party of Russians encamped, but with no fixed establishment. Trade was carried on with the natives there, and subsequently at various other places on what is now the Alaskan coast, and several harbours were surveyed. In the following year, Portlock and Dixon returned to the vicinity of Prince William Sound, where they found Meares, who had spent the previous winter there. They subsequently called at a number of places on the Alaskan coast, as well as at ports now included in the coast line of British Columbia, making very substantial additions to geographical knowledge.

Meares' Voyages, 1790. See also, "Annual Register," 1790 vol. xxxii, p. 287

Meares sailing from Bengal in the "Nootka" early in the year, reached the Islands of Atka and Amlia of the Aleutian chain, staying two days at the last-named island, and holding communication with the natives and Russians found there. He then proceeded eastward along the Aleutian Islands, and was piloted into Unalaska by a Russian who came off to the ship. He describes the Russian establishment as consisting of underground huts like those occupied by the natives; but being anxious to leave the vicinity of the Russian traders, he continued his voyage eastward to Cook Inlet and eventually wintered in Prince William Sound, as above stated.

Meares' later voyage, in 1788 and 1789, which is better known than his first venture, was directed to that part of the coast lying to the southward of the limits afterwards included by the Ukase of 1799. In 1788, Meares built at Nootka, in the northern part of Vancouver Island, the first vessel ever constructed on the coast of the north-western part of America. She was intended for use in the fur trade, and was appropriately named the "North-west America."

Alaska, p. 255.

Also in 1786, La Pérouse, on his voyage round the world, under instructions of the French Government, first made the American land near Mount St. Elias. Thence he sailed eastward and southward, calling at places on the Alaskan coast. At Lituya Bay he obtained in trade 1,000 sea-otter skins.

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Alaska, p. 243.

Ibid., pp. 192-193.

In the same year the Russian Pribyloff discovered the islands in Behring Sea, now known by his name.

Ibid., pp. 270-272.

In 1788, a Spanish expedition, in the vessels "Princesa" and "San Carlos," under Martinez and Haro, set out.. It

visited Prince William Sound, but found no Russians. Haro, however, found a Russian colony at Three Saints, on Kadiak Island. This was the easternmost place which had at this time a permanent Russian settlement. The voyagers took possession of Unalaska for Spain, but afterwards found Russian traders on the island.

In the same year, a Russian vessel explored Prince William Sound, Yakutat, and Lituya Bays, all of which had previously been examined by English or French voyagers. Ibid., pp. 267-270.

In 1788, vessels from the United States first traded on the north-west coast. North-west Coast, vol. i, p. 185.

Upon the conflict of interests at this time along this part of the American coast, and the rival claims to territory there, Bancroft makes the following remarks:

> The events of 1787–'88 must have been puzzling to the natives of Prince William Sound. Englishmen under the English flag, Englishmen under the Portuguese flag, Spaniards and Russians, were cruizing about, often within a few miles of each other, taking possession, for one nation or the other of all the land in sight. Alaska, p. 267.

Referring to Billing's Russian scientific exploring expedition, by which several voyages were made from 1787 to to 1791 in the Behring Sea region, Bancroft says:

> The geographical results may be set down at next to nothing, with the exception of the thorough surveys of Captain Bay in Illiuliuk Harbour on Unalaska Island. Every other part of the work had already been done by Cook. Ibid., p. 296.

The complaints of natives, against the practices of independent traders and adventurers, brought back by this expedition, had much to do with the subsequent grant of a monopoly of the trade to the Russian-American Company.

19 In 1789, twelve vessels at least are known to have been trading on the north-west coast.* North-west Coast, vol. i, pp. 204–212.

The well-known "Nootka" seizures by the Spaniards occurred in this year.

In 1790, Fidalgo sailed from Nootka, then occupied by Spain, to examine the north-west coast, including Prince William Sound, Cook Inlet, and Kadiak. The trading-vessel "Phœnix," Captain Moore, from the East Indies, was in Prince William Sound in this year. Alaska, p. 273. Ibid., p. 325.

At this time also, Russia and Sweden being at war, a Swedish cruizer visited the Aleutian Islands, but finding no Government establishment to attack, and no Russians except traders living "in abject misery," her Commander refrained from disturbing them. Ibid., p. 285.

In 1791, Malaspina, from Spain, under orders of his Government, visited several places upon what is now the Alaskan coast. Marchand, in the "Solide," from France, on a Ibid., p. 274. Ibid., p. 275.

*In many cases no records exist of the trading voyages made to the north-west coast, and the existing records are very incomplete. It is in some cases certainly known that these traders extended their operations to the north of the limit mentioned in the Ukase of 1799, or that of the Ukase of 1821. In other cases the extent of the voyages made is unknown. The traders went, in fact, wherever skins could be purchased, and, if disappointed or forestalled at one place, at once departed for another. None of these trading-vessels were Russian.

voyage of trade and circumnavigation, also visited the coast, and Douglas, in the "Iphigenia," was in Cook Inlet in this year.

Ibid., p. 248.

North-west Coast, vol. i, pp. 250-257.

Besides the above vessels, at least eight trading-vessels are known to have been on the coast, of which seven were from the United States.

Alaska, p. 244.

In 1792, Caamano, setting out from Nootka, explored Port Bucarelli, in South-eastern Alaska; and it is reported that in this year fully twenty-eight vessels were upon the coast, at least half of them being engaged in the fur trade.

Vancouver, vol. iii, p. 498. Voyage of Discovery to the Pacific Ocean. London, 1798.

Vancouver gives a list of 21 vessels for the same year, divided as follows: From England, 6; from East Indies, 2; from China, 3; from United States, 7; from Portugal, 2; from France, 1.

Alaska, p. 296.

The "Halcyon," Captain Barclay, visited Petropaulovsk for purposes of trade, and a French vessel, "La Flavia," wintered there.

Vancouver's voyage.

In 1793, Vancouver, who had been dispatched by the English Government with the "Discovery" and "Chatham" for the purpose of finally deciding the existence or otherwise of a communication between the Pacific and Atlantic, by the exploration of all remaining inlets on the north-west coast, was occupied in surveying operations on what now constitutes the south-eastern Alaskan coast.

In 1794, he surveyed Cook Inlet to its head, and Prince William Sound, Kadiak, and the coast extending to Yakutat Bay, were in turn carefully laid down in detail. He ascertained that the easternmost Russian Establishment at this time was at Port Etches on Prince William Sound.

Ibid., vol. iii, p. 199.

Concerning the Russians here and there met with, Vancouver remarks that he—

> Clearly understood that the Russian Government had little to do with these Settlements; that they were solely under the direction and support of independent mercantile Companies. . . . . Not the least attention whatever is paid to the cultivation of the land or to any other object but that of collecting furs, which is principally done by the Indians.

Near Yakutat Bay he fell in with the "Jackal," an English trading vessel, which was then upon the coast for the third consecutive season; and further to the south-eastward he met with the "Arthur," Captain Barber, from Bengal.

Vancover took possession of the coast southward from Cross Sound (latitude 58°) in the name of Great Britain. The results of his surveys were published in 1798.

North-west Coast, vol. i, p. 297.

The names of four trading-vessels on the north-west coast, including the "Jackal," are known for this year.

Ibid., p. 304.

In 1795, a trading-vessel, named the "Phœnix," from Bengal, was on the north-west coast.

Ibid., p. 305.

In 1796, at least three trading-vessels are known to have been on the north-west coast.

Ibid., p. 306.

In 1797, the names of four trading-vessels on this coast are known, but these constituted probably but a small part of the fleet.

Ibid. p. 306.

In 1798, the names of six trading-vessels happen to have *been recorded.*

In 1799, the "Caroline," Captain Cleveland, from Boston, arrived from Sitka shortly after a Russian post had been established there.

Several other American vessels, among them the brig "Eliza," under Captain Rowan, visited Sitka during the summer and "absorbed the trade while the Russians were preparing to occupy the field in the future." Alaska, p. 389.

21

The names of seven vessels trading on the north-west coast are recorded in this year. North-west Coast, vol. 1, p. 307.

Nothing approaching to a complete record of the names or nationalities of vessels trading upon this part of the coast in the years about the close of the last century can now be obtained, and, in the absence of any published record of explorations, even incidental allusions to the presence of such traders become rare in the years after the date of Vancouver's departure. That such trade was, however, continuously practised is evident from the general complaints made by the Russians as to its effect on their operations.

The following quotations from Bancroft's "History of Alaska" allude to complaints referring particularly to these years.

Writing of the enterprises of Baranoff, Governor of Sitka, Bancroft says:

At every point eastward of Kadiak where he had endeavoured to open trade, he found himself forestalled by English and American ships, which had raised the prices of skins almost beyond his limited means. Alaska, p. 384.

Again, referring specially to the nascent Establishment at Sitka, Baranoff himself writes:

I thought there would be no danger with proper protection from the larger vessels, though the natives there possess large quantities of fire-arms and all kinds of ammunition, receiving new supplies annually from the English and from the Republicans of Boston and America, whose object is not permanent settlement on these shores, but who have been in the habit of making trading trips to these regions. Ibid., p. 395.

On another page Bancroft writes:

Baranoff's complaints of foreign encroachment appear to have been well grounded. Within a few leagues of Sitka the captains of three Boston ships secured 2,000 skins, though paying very high prices, each one trying to outbid the other. Ibid., p. 398.

Further on Baranoff is quoted to the effect that the Americans had been acquainted with the tribes in this region for two or three years, and sent there annually from six to eight vessels. These vessels from the United States were at this time just beginning to supplant the English traders, who had in earlier years been the more numerous. Ibid., p. 399.

22

Once more Bancroft quotes Baranoff as follows:

The resources of this region are such that millions may be made there for our country with proper management in the future, but for over ten years from six to ten English and American vessels have called here every year. It is safe to calculate an average of 2,000 skins on eight, or say six vessels, which would make 12,000 a-year, and if we even take 10,000 as a minimum, it would amount in ten years to 100,000 skins, which, at the price at Canton of 45 roubles per skin, would amount *to 4,500,000 roubles.* Alaska, p. 399.

CIRCUMSTANCES WHICH LED UP TO UKASE OF 1799.

It will be convenient at this point to consider the circumstances which led up to the Ukase of 1799, the terms of that Ukase, and its effect.

Alaska, p. 305. As early as 1786, the idea had become dominant with Grigor Shelikof, who had shortly before established the first permanent Russian colony at Kadiak, of creating a Company which should hold a monopoly of trade in the Russian possessions on the Pacific, and over all that part of the American Continent to which Russian traders resorted. Shelikof obtained but a partial success in the Charter issued for the United American Company; but after his death at Irkutsk in 1795, his schemes were taken up by his son-in-law Rezanof, who succeeded in carrying them to completion, and, in 1799, a Ukase was issued which granted the wished-for exclusive privileges to the New Russian-American Company. Before this time, in 1798, a consolidation of the Shelikof Company with several smaller concerns had been effected under the name of the United American Company; and at the date of the issuing of the Ukase there were but two rival Companies of importance in the field, the Shelikof or United American Company, and the Lebedef Company, and these engaged in active competition and hostility.

Ibid., pp. 377-379.

Bancroft sums up the situation about 1791 and 1792 in the following words:

Ibid., pp. 338, 339. Affairs were assuming a serious aspect. Not only were the Shelikof men excluded from the greater part of the inlet [Cook Inlet], but they were opposed in their advance round Prince William Sound, which was also claimed by the Lebedef faction, though the Orekhof and other Companies were hunting there. . . . .

23 Thus the history of Cook Inlet during the last decade of the eighteenth century is replete with romantic incidents—midnight raids, ambuscades, and open warfare—resembling the doings of mediæval *raubritters*, rather than the exploits of peaceable traders. . . . .

Robbery and brutal outrages continued to be the order of the day, though now committed chiefly for the purpose of obtaining sole control of the inlet, to the neglect of legitimate pursuits.

Again, in another place, the same author writes, with regard especially to the position of Baranoff, Governor of Sitka, when he took charge of the Shelikof Colony of Kadiak:

Alaska, p. 321. Thus, on every side, rival establishments and traders were draining the country of the valuable staple upon which rested the very existence of the scheme of colonization. To the east and north there were Russians, but to the south-east the ships of Englishmen, Americans, and Frenchmen were already traversing the tortuous channels of the Alexander Archipelago, reaping rich harvests of sea-otter skins, in the very region where Baranoff had decided to extend Russian dominion in connection with Company sway.

Ibid., pp. 302, 391, 393. It was only in the later years of the competition between the rival Russian Companies that they began to assume hostile attitudes to one another. The growing power of some of them favoured aggression, and the increasing scarcity of the sea-otter, which was already beginning to be felt, accentuated it. At first, and for many years after Behring's initial voyage, the traders from Siberia were sufficiently occupied in turning to advantage their dealings

with the natives of the islands and coasts visited by them, and this not in the most scrupulous manner. Tribute in furs was exacted from the Aleuts on various pretexts, and whenever the traders came in sufficient force these people were virtually enslaved. Not only were the companies of traders under no sufficient or recognized control by the Russian Government, but they even disliked and resented in some measure the advent or presence among them of commissioned officers of the Government. Ibid., p. 301.

The effect of the reports of the subordinate members of Billing's expedition, as to the unsatisfactory state of affairs in the Aleutian Islands and on the American coast, tended to favour the project of the establishment of a monopoly, by disclosing the abuses which existed by reason of the existing competition. Bancroft more than 24 hints that the superior officers of the expedition were induced to keep silence from interested motives; and Billing's Report, whatever its tenour may have been, was never published. Ibid., p. 299.

In the end, however, it became in a degree imperative for the Russian Government to put a stop to the scandals and abuses which flourished in this remote and practically uncontrolled portion of the Empire, and the easiest way in which this could be done, and the least expensive, was to vest exclusive rights in the hands of the most powerful of the existing rival Companies. This, being also in the interests of the Company in question, was not found difficult of achievement, and, as a consequence of the Ukase of 1799, the absorption of the smaller concerns still existing appears to have followed without any great difficulty, Baranoff, as the executive head of the new Corporation on the American coast, coming to the front as the natural leader.

When Shelikof presented at St. Petersburg his original petition for the right to monopolize the trade, a Report was requested on the subject from Jacobi, the Governor-General of Eastern Siberia, and in Jacobi, Shelikof found an able advocate. Jacobi stated that it would be only just to Shelikof to grant his request, and that it would be unfair to allow others to enjoy the benefits of the peace which Shelikof had established at Kadiak. Alaska, p. 308.

The Empress then ordered the Imperial College of Commerce to examine the question, and a Committee of this body endorsed Jacobi's Report and recommended that the request of Shelikof and Golikof for exclusive privileges should be granted. Ibid., p. 309.

Though, among the arguments naturally advanced in favour of the grant of a monopoly, we find it urged that the benefits of trade accruing would thus be reserved to Russian subjects, the history of the occupation of the coasts and the records concerning it, show conclusively that this was not the object which to any great extent induced Shelikof to apply for such a monopoly. His Company had the utmost difficulty in sustaining its position against hostile natives, while not less serious were the difficulties arising from the competition, and scarcely veiled hostility of rival

Russian traders. The increasing trade by foreigners, together with the numerous exploring and surveying
25 expeditions dispatched to the north-west coast of America by various Powers, were no doubt distrusted by the Russian traders; but at the same time these traders were often obliged to depend on such foreigners for support and assistance.

Nowhere in the annals of the times previous to, and during the operation of the Ukase of 1799, do we find any reference to attempts to interfere with or restrict the operations of foreigners upon the American coasts or in the Aleutian Islands. Even the scientific expeditions of the period were often largely interested in trade as well as in exploration, but all vessels meeting with the Russians report a favourable, if not a hospitable, reception.

Such an attitude on the part of the traders and the Company is, in fact, strictly in accord with the Ukase of 1799, which is purely domestic in its character, and in which no exclusive rights against foreigners are asserted.

UKASE OF 1799.

The following is a literal translation of the Ukase in question, taken from Golovnin, in "Materialui dla Istoriy Russkikh Zasseleniy," i., 77–80:

Alaska, pp. 379–380.

By the grace of a merciful God, we, Paul I, Emperor and Autocrat of All the Russias, &c. To the Russian-American Company, under our highest protection, the benefits and advantages resulting to our Empire from the hunting and trading carried on by our loyal subjects in the north-eastern seas and along the coasts of America have attracted our Royal attention and consideration; therefore, having taken under our immediate protection a Company organized for the above-named purpose of carrying on hunting and trading, we allow it to assume the appellation of "Russian-American Company under our highest protection;" and for the purpose of aiding the Company in its enterprises, we allow the Commanders of our land and sea forces to employ said forces in the Company's aid if occasion requires it, while for further relief and assistance of said Company, and having examined their Rules and Regulations, we hereby declare it to be our highest Imperial will to grant to this Company for a period of twenty years the following rights and privileges:

1. By the right of discovery in past times by Russian navigators of the north-eastern part of America, beginning from the 55th degree of north latitude and of the chain of islands extending from Kamschatka to the north to America and southward to Japan, and by right of possession of the same by Russia, we most graciously permit the
26 Company to have the use of all hunting grounds and establishments now existing on the north-eastern [*sic*] coast of America, from the above-mentioned 55th degree to Behring Strait, and on the same also on the Aleutian, Kurile, and other islands situated in the north-eastern ocean.

2. To make new discoveries not only north of the 55th degree of north latitude but farther to the south, and to occupy the new lands discovered, as Russian possessions, according to prescribed rules, if they have not been previously occupied by any other nation, or been dependent on another nation.

3. To use and profit by everything which has been or shall be discovered in those localities, on the surface and in the bosom of the earth, without any competition by others.

4. We most graciously permit this Company to establish Settlements in future times, wherever they are wanted, according to their best knowledge and belief, and fortify them to insure the safety of the inhabitants, and to send ships to those shores with goods and hunters, without any obstacles on the part of the Government.

5. To extend their navigation to all adjoining nations and hold business intercourse with all surrounding Powers, upon obtaining their free consent for the purpose, and under our highest protection, to enable them to prosecute their enterprises with greater force and advantage.

6. To employ for navigation, hunting, and all other business, free and unsuspected people, having no illegal views or intentions. In consideration of the distance of the localities where they will be sent, the provincial authorities will grant to all persons sent out as settlers, hunters, and in other capacities, passports for seven years. Serfs and house-servants will only be employed by the Company with the consent of their land-holders, and Government taxes will be paid for all serfs thus employed.

7. Though it is forbidden by our highest order to cut Government timber anywhere without the permission of the College of Admiralty, this Company is hereby permitted, on account of the distance of the the Admiralty from Okhotsk, when it needs timber for repairs, and occasionally for the construction of new ships, to use freely such timber as is required.

8. For shooting animals, for marine signals, and on all unexpected emergencies on the mainland of America and on the islands, the Company is permitted to buy for cash, at cost price, from the Government artillery magazine at Irkutsk yearly 40 or 50 pouds of powder, and from the Nertchinsk mine 200 pouds of lead.

9. If one of the partners of the Company becomes indebted to the Government or to private persons, and is not in a condition to pay them from any other property except what he holds in the Company, such property cannot be seized for the satisfaction of such debts, but the debtor shall not be permitted to use anything but the interest or dividends of such property until the term of the Company's privileges expires, when it will be at his or his creditors' disposal.

27 10. The exclusive right most graciously granted to the Company for a period of twenty years, to use and enjoy, in the above-described extent of country and islands, all profits and advantages derived from hunting, trade, industries, and discovery of new lands, prohibiting the enjoyment of those profits and advantages not only to those who would wish to sail to those countries on their own account, but to all former hunters and trappers who have been engaged in this trade, and have their vessels and furs at those places; and other Companies which may have been formed will not be allowed to continue their business unless they unite with the present Company with their free consent; but such private Companies or traders as have their vessels in those regions can either sell their property, or, with the Company's consent, remain until they have obtained a cargo, but no longer than is required for the loading and return of their vessel; and after that nobody will have any privileges but this one Company, which will be protected in the enjoyment of all the advantages mentioned.

11. Under our highest protection, the Russian-American Company will have full control over all above-mentioned localities, and exercise judicial powers in minor cases. The Company will also be permitted to use all local facilities for fortifications in the defence of the country under their control against foreign attacks. Only partners of the Company shall be employed in the administration of the new possessions in charge of the Company.

In conclusion of this our most gracious order for the benefit of the Russian-American Company under highest protection, we enjoin all our military and civil authorities in the above-mentioned localities not only not to prevent them from enjoying to the fullest extent the privileges granted by us, but in case of need to protect them with all their power from loss or injury, and to render them, upon application of the Company's authorities, all necessary aid, assistance, and protection.

To give effect to this our most gracious Order, we subscribe it with our own hand, and give orders to confirm it with our Imperial seal.

Given at St. Petersburgh, in the year after the birth of Christ, 1799, the 27th day of December, in the fourth year of our reign.

'Signed) PAUL.

THE UKASE OF 1799 CONSIDERED.

The Ukase, it will be observed, granted to the Russian-American Company exclusive rights as against other Russian subjects only, and in no way interfered with the rights of foreigners, notwithstanding that the representations which led to its promulgation contained, as has already been indicated, complaints of competition by foreigners.

It will be noticed, for instance, that the details incorporated in clause 10 of the Ukase respecting the rights of independent traders are such as to be applicable to Russian subjects or Companies alone.

28 The rights and privileges under the grant extended to the hunting grounds and establishments then existing on the main coast of America from Behring Strait down to the 55th degree of north latitude.

The southern limit of the exclusive coast privileges granted to the Company extended on the Asiatic side to Japan.

Not only were the main coasts of Asia and America thus covered by the Ukase, but the same privileges were granted on the Aleutian, Kurile, and other islands "situated in the North Eastern Ocean."

It will be noted, therefore, that the area over which the exclusive privileges were granted to the Russian-American Company extended both on the coast of Asia and of America far beyond the limits of Behring Sea.

Special privileges in regard to the purchase of powder for shooting animals "on the mainland of America and on the islands" were conceded, and the exclusive right "to use and enjoy in the above-described extent of country and islands" the hunting and trading.

THE UKASE OF 1799 PURELY DOMESTIC.

The Ukase in no way claimed any exclusive jurisdiction over the sea, nor were any measures taken under it to restrict the commerce, navigation, or fishery of the subjects of foreign nations, and this although, within the very area covered by the Ukase, as has already been shown by the facts stated, vessels of various nations had been navigating and trading.

It will be seen, by the account of the years following 1799, that these operations on the part of foreigners continued.

Referring to the Ukase of 1799, Mr. Middleton, the United States Minister at St. Petersburgh, writes, 7th (19th) April, 1824, to Mr. Adams, the Secretary of State of the United States, as follows:

American State Papers, Foreign Relations, vol. v, p. 461.

The confusion prevailing in Europe in 1799 permitted Russia (who alone seems to have kept her attention fixed upon this interest during that period) to take a decided step towards the monopoly of this trade, by the Ukase of that date, which trespassed upon the acknowl-

edged rights of Spain;* but at that moment the Emperor Paul
29 had declared war against that country as being an ally of France. This Ukase, which is, in its *form*, an act purely domestic, was never notified to any foreign State with injunction to respect its provisions. Accordingly, it appears to have been passed over unobserved by foreign Powers, and it remained without execution in so far as it militated against their rights.

HISTORICAL OUTLINE RESUMED.

The accuracy of the views expressed by Mr. Middleton appears clearly from the facts disclosed by the chronological statement relating to the period subsequent to the year 1799:

In 1800, the ship "Enterprise," from New York, arrived at Kadiak. Alaska, p. 389.

The name of the seven trading-vessels on the north-west coast are given in this year. North-west Coast, vol. i, p. 308.

In 1801, there were at least thirteen United States vessels on the north-west coast. These vessels exchanged with the natives of the coast for furs parts of their cargoes, and, proceeding to China, returned to their respective countries with cargoes of teas, &c. Upwards of 18,000 sea-otter skins, besides other furs, were in 1801 collected by United States traders alone for the China market. Ibid., p. 310. Robert Greenhow, Librarian of United States' Department of State, "History of Oregon and California," pp. 266, 267.

In 1802, the Russian Establishment at Sitka was destroyed, and nearly all the Russians there were massacred by the natives. According to Lisiansky, the natives were assisted by three deserters from a United States vessel, the "Jenny," which had called at Sitka not long before. Shortly afterwards, an English vessel, the "Unicorn," Captain Barber, arrived at Sitka, and two other vessels, reported by the Russian survivors as English, but one of these Bancroft believes to have been the United States vessel "Alert." North American Review, 1822, Article XVIII. See Appendix, vol. i, No. 3. Alaska, pp. 404–409.

In this year also Krusenstern, having visited China, presented a Memorial to the Russian Government calling attention to the advantages offered by the trade in furs from America direct to Chinese ports, and suggesting that Russia should engage in it.

Of the vessels trading on the north-west coast in this year, the names of ten have been recorded. North-west Coast, vol. i, pp. 11, 312.

30 In 1803, Baranoff contemplated the abandonment of Unalaska, owing to disease and nonarrival of supplies. He ordered that the best men should be moved to the Pribilof Islands to collect there the furs accumulated by the natives. These islands had not been visited for many years. Ibid., p. 417.

Captain O'Cain, of the United States vessel "O'Cain," exchanged goods for furs with Baranoff at Sitka, and also took Aleutian hunters to the Californian coast to hunt fur-seals and sea-otters. "Thus was inaugurated a series of hunting expeditions beyond the borders of the Russian Colonies, which continued for many years." Alaska, pp. 477, 478.

The names of five vessels trading on the north-west coast are known. North-west Coast, vol. i, pp. 312–317.

* The rights of Spain are here mentioned because, by the Ukase of 1799, Russia claimed territory which Spain was also understood to claim. In 1824 the United States was committed in its own interest to support the old *Spanish claim*, in consequence of the Spanish cession *to the United States in 1819.*

Ibid., pp. 318, 319. In 1804, Sitka was reoccupied and rebuilt by the Russians. Two United States vessels, one being the "Juno," were there. The names of four vessels are known as trading on the north-west coast.

Ibid., p. 320. In 1805, the "Juno" and another vessel from the United States were at Sitka, and we hear of six vessels, including the "Juno," as trading on the north-west.

In 1806, the Russian Envoy Rezanoff visited the Pribilof Islands on the "Maria," and endeavoured to stop the wasteful slaughter of fur-seals. He recommended the Emperor to "take a stronger hold of the country," as the traders in ships from Boston were undermining the trade with China.

Alaska, p. 446.

Ibid., p. 451. He reported that the "Bostonians" had armed the Kolosh Indians.

Ibid., p. 454. In the same year the "Juno," with her cargo, was purchased by Baranoff, and the "Eclipse" (Captain O'Cain) sailed for China with furs; but was lost on the way back.

Ibid., pp. 478, 479.

The names of four vessels trading on the north-west coast are known in this year.

Rezanoff, in 1807, sent the "Juno" to the Californian coast for provisions. The "Myrtle," an English ship (Captain Barber), was purchased by Baranoff. Six north-west coast trading-vessels are known by name for this year.

Ibid., p. 461.

Ibid., pp. 479, 480. In 1808, the United States vessel "Mercury" obtained at Kadiak 25 bidarkas, or skin-boats, for hunting and trading to the southward.

Four United States trading vessels are known to have been on the Alaskan coast in 1808 and 1809.

Alaska, p. 467.

31 In 1810, the Russian sloop-of-war "Diana" visited Sitka. There were several United States vessels in the port at the time. Shortly after the United States vessels "Enterprise" and "O'Cain" arrived. The "Enterprise" went to Canton with furs.

Ibid., p. 470. Galovnin, Commander of the "Diana," writes that at this time an American sailor and a Prussian skipper composed the Diplomatic Corps of the Russian-American Company.

North-west Coast, vol. i, p. 325. In 1810 and 1811, four foreign vessels were engaged in sea otter hunting, under Russian contracts.

Alaska, p. 429. In 1811, the "Enterprise" returned from and went back

Ibid., p. 483. to China with furs. In this year the Ross Colony was founded in California to provide agricultural products for

North-west Coast, vol. i, p. 326. use on the north-west coast. Five vessels engaged in trading and hunting, besides the four vessels under Russian contracts, were seen on the coast of Southern Alaska in this year.

Alaska, p. 472. In 1812, the United States ship "Beaver" disposed of her cargo to Baranoff at Sitka, and was then sent to the Pribiloff Islands for fur-seal skins as payment.

Ibid., p. 480. Between 1809 and 1812, Baranoff made six additional hunting contracts with United States vessels. He received a proportion of the skins, which were chiefly sea-otters.

North-west Coast, vol. i, p. 329. Between 1812 and 1814, there was scarcely any trade, owing to the war between England and the United States.

Alaska, p. 503. In 1814, Captain Bennett (United States) sold two vessels with their cargoes to Baranoff, and took fur-seal skins

from the Pribiloff Islands in payment. Lozaref, sent by Russia, with two ships, reached Sitka, but quarrelled with Baranoff and returned. Ibid., pp. 504, 505.

In 1815, the Russian vessel "Isabel" reached Sitka with Dr. Sheffer on board. Ibid., p. 506.

In 1816, the Russian vessel "Rurik" (Captain Kotzebue) touched at St. Lawrence Island and explored Kotzebue Sound, north of Behring Strait. Ibid., p. 501.

Two United States vessels visited the Russian Settlements this year. North-west Coast, vol. i, p. 335.

In 1817, Kotzebue, on an exploring expedition to the North, only reached St. Lawrence Island. An expedition in two vessels under Hagemeister, sent by Russia, reached Sitka. Alaska, p. 501.

32 In 1818, Hagemeister superseded Baranoff, under instructions. Roquefeuil, a French officer, arrived at Sitka in the "Bordelais," a trading vessel. He sailed for Prince of Wales Archipelago, but had a conflict with natives and returned to Sitka. Roquefeuil notes meeting a United States and a British trading vessel in Alaskan waters. Alaska, pp. 522, 525. North-west Coast, vol. i, p. 338.

In 1818 and 1821, expeditions were dispatched by the British Government in search of a northwest passage from the Atlantic to the Pacific. These efforts were continued, and in 1824 and 1825 Parry, Beechey, and Franklin were engaged in the same quest, Beechey having been directed to pass through Behring Strait and to rendezvous with the others at Kotzebue Sound. These efforts were stimulated by the offer by Parliament of large pecuniary rewards, and it is obvious that the value of the discovery, if made, depended on the free right of navigation for purposes of commerce through Behring Strait. Encyclopædia Britannica, 9th ed., vol. xix, p. 319.

In 1819, the United States traders obtained most of the trade, bartering with the Kolosh fire-arms and rum for skins. They obtained about 8,000 skins a year. The Russians could not successfully compete with them. Alaska, p. 528.

The privileges granted for twenty years to the Russian-American Company were now about to expire, and Golovnin was instructed to inquire as to its operations. His Report was not favourable.

He writes:

> Three things are wanting, in the organization of the Company's colonies—a clearer definition of the duties belonging to the various officers, a distinction of rank, and a regular uniform, so that foreigners visiting these parts may see something indicating the existence of forts and troops belonging to the Russian sceptre—something resembling a regular garrison. At present they can come to no other conclusion than that these stations are but temporary fortifications erected by hunters as a defence against savages. Ibid, p. 531.

In 1820, four trading vessels are known to have been operating on the north-west coast. North-west Coast, vol. i, p. 340.

The extent of Russian occupation at about the date of the expiry of the first Charter can be shown by the Census taken in 1819, which states the number of Russians as follows: Alaska, p. 522.

33	Men.	Women.
Sitka, or New Archangel	198	11
Kadiak and adjoining islands	73	.....
Island of Ookamok	2	.....
Katmai	4	.....
Sutkhumokoi	3	.....
Voskressensky Harbour	2	.....
Fort Constantine	17	.....
Nikolai, Cook Inlet	11	.....
Alexandrovsk, Cook Inlet	11	.....
Ross Settlement, California	27	.....
Seal Islands	27	.....
Nushagak (the only Settlement on the continent north of the Aleutian Islands)	3	2
Total	378	13

For Tikhmeneff's complete tables, including natives, see Appendix, vol. i, No. 5.

UNCERTAINTY OF TERRITORIAL CLAIMS IN 1818.

See also Adams to Rush, July 22, 1823; American State Papers, Foreign Relations, vol. v, p. 446; and also Confidential Memorial inclosed in letter, Middleton to Adams, December 1 (13), 1823; American State Papers, Foreign Relations, vol. v, p. 449.

While the subjects of Russia, Spain, Great Britain, and the United States were doubtless making claims on the part of their respective countries from time to time, so uncertain were these claims and the merits of each, that in 1818 (20th October), in the Convention between the United States and Great Britain, it was agreed that any—

> Country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country, the only object of the High Contracting Parties in that respect being to prevent disputes and differences amongst themselves.

See Appendix, vol. ii, Part II, Nos. 4 and 5.

For text of Convention, see American State Papers, vol. iv, p. 406.

RUSSIAN TERRITORIAL CLAIM IN 1821.

American State Papers, Foreign Relations, vol. v, p. 436.

See Appendix, vol. ii, Part II, No. 3.

Mr. Adams, Secretary of State of the United States, in a despatch to Mr. Middleton, the United States Minister at St. Petersburgh, dated 22nd July, 1823, contended that even as late as that year Russian rights in the region under consideration "were confined to certain *islands* north of the 55th degree of latitude," and had "no existence on the continent of America."

In the same letter Mr. Adams observed:

> It does not appear that there ever has been a permanent Russian Settlement on this continent south of latitude 59°, that of New Archangel, cited by M. Poletica, in latitude 57° 30′, being upon an island. So far as prior *discovery* can constitute a foundation of right, the papers
> 34 which I have referred to prove that it belongs to the United States as far as 59° north, by the transfer to them of the rights of Spain. There is, however, no part of the globe where the mere fact of discovery could be held to give weaker claims than on the north-west coast. "The great sinuosity," says Humboldt, "formed by the coast between the 55th and 60th parallels of latitude, embraces discoveries made by Gali, Bering, and Tchivikoff, Quadra, Cook, La Perouse, Malaspina, and Vancouver. No European nation has yet formed an establishment upon the immense extent of coast from Cape Mendosino to the 59th degree of latitude. Beyond that limit the Russian factories commence, most of which are scattered and distant from each other like the factories established by the European nations for the last three centuries on the coast of Africa. Most of these little

Russian Colonies communicate with each other only by sea, and the new denominations of Russian-America or Russian possessions in the new continent, must not lead us to believe that the coast of Bering Bay, the Peninsula of Alaska, or the country of the Ischugatschi, have become Russian *provinces* in the same sense given to the word when speaking of the Spanish Provinces of Sonora, or New Biscay." (Humboldt's "New Spain," vol. ii, Book 3. chap. 8, p. 496.)

In M. Poletica's letter of the 28th February, 1822, to me, he says that when the Emperor Paul I granted to the present American Company its first Charter in 1799, he gave it the *exclusive possession* of the north-west coast of America, which belonged to Russia, from the 55th degree of north latitude, to Bering Strait.

In his letter of 2nd of April, 1822, he says that the Charter to the Russian-American Company in 1799, was merely conceding to them a part of the sovereignty, *or rather certain exclusive privileges of commerce.*

This is the most correct view of the subject. The Emperor Paul granted to the Russian-American Company certain exclusive privileges of commerce—exclusive with reference to other Russian subjects; but Russia had never before *asserted* a right of sovereignty over any part of the North American continent; and in 1799 the people of the United States had been at least for twelve years in the constant and uninterrupted enjoyment of a profitable trade with the natives of that very coast, of which the Ukase of the Emperor Paul could not deprive them.

The Honourable Charles Sumner, speaking in the United States Senate on the occasion of the cession of Alaska to the United States, in 1867, said:

H. R., Ex. Doc. 177, 2nd Sess., 40th Cong., p. 149, 1867–68. See Appendix, vol. i, No. 6.

It seems that there were various small Companies, of which that at Kadiak was the most considerable, all of which were finally fused into one large trading Company, known as the Russian-American Company, which was organized in 1799, under a Charter from the Emperor Paul, with the power of administration throughout the whole region, including the coasts and the islands. In this respect it was not unlike the East India Company, which has played such a part in English history; but it may be more properly compared with the Hudson Bay Company, of which it was a Russian counterpart. The Charter was for a term of years, but it has been from time to time extended, and, as I understand, is now on the point of expiring. The powers of the Company are sententiously described by the "Almanach de Gotha" for 1867, where, under the head of Russia, it says that "to the present time Russian America has been the *property of a Company.*"

And, referring to as late a period as 1867, he remarked:

EXTENT OF RUSSIAN SETTLEMENTS.

It is evident that these Russian Settlements, distributed through an immense region and far from any civilized neighbourhood, have little in common with those of European nations elsewhere, unless we except those of Denmark, on the west coast of Greenland. Nearly all are on the coast or the islands. They are nothing but "villages" or "factories" under the protection of palisades. Sitka is an exception, due unquestionably to its selection as the head-quarters of the Government, and also to the eminent character of the Governors who have made it their home.

Touching Russia's claims to exclusive jurisdiction over more than certain islands in the Pacific Ocean on the American coast, Mr. Adams, moreover, in 1823 brought forward with approval, articles which appeared in "The North American Review," published in the United States, and in the "Quarterly Review," published in England. The facts stated in these articles show the grounds upon which the Government of the United States considered themselves justified in the contention advanced by Mr. Adams, that "the rights of discovery, of occupancy, of uncontested possession," alleged by Russia, were "all without *foundation in fact,*" as late as the year 1823.

Article XVIII, North American Review, vol. xv, Quarterly Review, 1821–22, vol. xxvi. See Appendix, vol. i, Nos. 3 and 4.

Adams to Middleton, July 22, 1823. See Appendix, vol. ii, Part II, No. 3.

Again referring to the circumstances in the year 1867 (the date of the cession of Alaska to the United States), the historian Bancroft writes:

Alaska, p. 591. "Moreover, Russia had never occupied, and never wished to occupy, this territory. For two-thirds of a century she had been represented there, as we have seen, almost entirely by a fur and trading Company under the protection of Government. In a measure it had controlled, or endeavoured to control, the affairs of that Company, and among its stockholders were several members of the Royal Family; but Alaska had been originally granted to the Russian-American Company by Imperial Oukaz, and by Imperial Oukaz the Charter had been
36 twice renewed. Now that the Company had declined to accept a fourth Charter on the terms proposed, something must be done with the territory, and Russia would lose no actual portion of her Empire in ceding it to a Republic with which she was on friendly terms, and whose domain seemed destined to spread over the entire continent.

The foregoing historical summary establishes—

That from the earliest periods of which any records exist down to the year 1821, there is no evidence that Russia either asserted or exercised in the non-territorial waters of the North Pacific any rights to the exclusion of other nations.

That during the whole of that period the shores of America and Asia belonging to Russia as far north as Behring Straits, and the waters lying between those coasts, as well as the islands therein, were visited by the trading vessels of all nations, including those sailing under the flags of Great Britain, the United States, Spain, and France, with the knowledge of the Russian authorities.

That the only rights, in fact, exercised by Russia or on her behalf, were the ordinary territorial rights connected with settlements or annexations of territory consequent upon such settlements, and the only rights she purported to deal with or confer were rights and privileges given to the Russian-American Company, as Russian subjects, in preference over other Russian subjects.

37

CHAPTER II.

HEAD B.—*The Ukase of 1821, and the circumstances connected therewith leading up to the Treaties of 1824 and 1825.*

Voyage, M. de Krusenstern, vol. 1, p. 14. American State Papers, Foreign Relations, vol. v, pp. 453–454. Shortly before the date of the renewal of the Charter of the Russian-American Company in 1821, the aspect of affairs had considerably changed.

COMPETITION BY FOREIGNERS.

The Company had long before fully succeeded in getting rid of its Russian rivals, but trading-vessels from England and from the United States frequented the coasts in increas-

American State Papers, vol. v, pp. 438–443. Alaska, p. 528. ing numbers, and everywhere competed with the Company. Goods were brought by these vessels at prices which the Company could not successfully meet, and furs were taken

by them direct to Chinese sea-ports, while the Company, as a rule, had still to depend on the overland route from Okhotsk to Kiakhta on the Amoor. Tikhmenieff, Ister. Obos. I, cited in note to Alaska, p. 532. See also Alaska, p. 446; Rezanof's complaint in 1806.

Domestic competition had in fact ceased, and the most serious drawback to the success of the Company consisted in the competition from abroad.

The difficulties resulting to the Company on account of foreign competition appear prominently in the complaints made by its agents at this time, and the new claim of the right to exclude foreigners from trade is embodied in the Ukase of 1821.

TEXT OF UKASE OF 1821.

The following is the translation of the Ukase which was issued by the Emperor Alexander in 1821: See Appendix, vol. 1, No. 1.

EDICT OF HIS IMPERIAL MAJESTY, AUTOCRAT OF ALL THE RUSSIAS.

The Directing Senate maketh known to all men: Whereas, in an Edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September [1821], and signed by His Imperial Majesty's own hand, it is thus expressed:

Observing from Reports submitted to us that the trade of our subjects on the Aleutian Islands and on the north-west coast of America appertaining unto Russia is subjected, because of secret and illicit traffic, to oppression and impediments, and finding that the principal cause of these difficulties is the want of Rules establishing the boundaries for navigation along these coasts, and the order of
38 naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific Regulations, which are hereto attached.

"In forwarding these Regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution.

(Countersigned) "COUNT D. GURIEFF,
"*Minister of Finances.*

"It is therefore decreed by the Directing Senate that His Imperial Majesty's Edict be published for the information of all men, and that the same be obeyed by all whom it may concern."

[L. S.]

[The original is signed by the Directing Senate. On the original is written in the handwriting of His Imperial Majesty, thus:] Be it accordingly, ALEXANDER.

RULES ESTABLISHED FOR THE LIMITS OF NAVIGATION AND ORDER OF COMMUNICATION ALONG THE COAST OF THE EASTERN SIBERIA, THE NORTH-WEST COAST OF AMERICA, AND THE ALEUTIAN, KURILE, AND OTHER ISLANDS.

"Section 1. The pursuits of commerce, whaling, and fishery, and of all other industry, on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring Straits to the 51st of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands, from Behring Straits to the south cape of the Island of Urup, viz., to the 45° 50′ northern latitude, is exclusively granted to Russian subjects. See Appendix, vol. 1, No. 1.

"Section 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo."

* * * * *

FIRST ASSERTION OF EXCLUSIVE JURISDICTION.

By this Ukase Russia first attempted to assert, as against other nations, exclusive jurisdiction of rights over the shores of America and Asia bounding the Pacific Ocean, certain islands therein, and over a portion of the Pacific Ocean including what is now known as Behring Sea.

PURPOSE OF UKASE OF 1821.

Baron Nicolay to Lord Londonderry, October 31 (November 12), 1821.

See Appendix, vol. ii, Part I, No. 1.

The purpose of the Ukase, so far as the attempted exclusion of foreigners from 100 miles of the coasts is concerned, is explained by Baron de Nicolay in his note to Lord Londonderry, the 31st October (12th November), 1821.

TO PREVENT ILLICIT TRAFFIC.

39 He insists that the operations of "smugglers" and "adventurers" on the coast—

> Have for their object not only a fraudulent commerce in furs and other articles which are exclusively reserved to the Russian-American Company, but it appears that they often betray a hostile tendency.
>
> It was, he continues, therefore necessary to take severe measures against these intrigues, and to protect the Company against the considerable injury that resulted, and *it was with that end in view* that the annexed Regulation has been published.

And again:

> The Government, however, limited itself, as can be seen by the newly published Regulation, to forbidding all foreign vessels not only to land on the Settlements of the American Company and on the peninsula of Kamtchatka and the coasts of the Okhotsk Sea, but also to sail along the coast of these possessions, and, as a rule, to approach them within 100 Italian miles.

The justification for the Ukase, and the Regulations made thereunder, is stated on the face of the Ukase in the words:

> And finding that the principal cause of these difficulties [*i.e.*, impediments caused by "secret and illicit traffic"] is want of Rules establishing the boundaries for navigation along these coasts, * * *.

TO EXTEND TERRITORIAL JURISDICTION.

That the object of the Ukase was to extend *territorial* jurisdiction over the north-west coast and islands and to prohibit the trade of foreigners, rather than to protect any existing or prospective fishery is further indicated by No. 70 of the Regulations of the Russian-American Company. This Regulation reads:

See Appendix, vol. i, No. 2.

> 70. A ship of war, after visiting, not only the Company's Settlements, but also, and more particularly, the channels which foreign merchant vessels are likely to *frequent for the purpose of illicit trading with the natives*, will return to winter wherever the Government orders it.

Poletica to Adams, February 28, 1822.

See Appendix, vol. ii, Part II, No. 1.

The motive and purpose of this Ukase is further explained by the letter of M. de Poletica, Russian Minister at Washington, dated the 28th February, 1822.

That Russia's aim was to acquire a vast North American Territory appears by the construction put by M. de Poletica on the Ukase of the Emperor Paul in 1799, as conveying

to the Russian-American Company the grant of a
40 territorial concession down to the 55th degree of latitude, and by his justification of its further extension to the 51st degree on the American coast.

He proceeds to defend the policy of exclusion contained in the Ukase of 1821 by explaining that, as Russian possessions extend from Behring Strait to the 51st degree north latitude on the north-west coast of America, and on the opposite coast of Asia and the islands adjacent, to the 45th degree, the sea within those limits (viz., that part of the Pacific Ocean) was a close sea, over which Russia might exercise exclusive jurisdiction; but he goes on to say that Russia preferred asserting only her essential right without "taking any advantage of localities," and on these grounds the limit of 100 Italian miles is justified.

The measure he declares to be directed:

Against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above mentioned an illicit trade, very prejudicial to the rights reserved entirely to the Russian-American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, inciting them likewise in every manner to resist and revolt against the authorities there established.

The same view is expressed in the Confidential Memo- See p. 42.
randum inclosed in the Duke of Wellington's letter to Mr. G. Canning of the 28th November, 1822.

Upon receiving communication of the Ukase, the British and United States Governments immediately objected both to the extension of the territorial claim and to the assertion of maritime jurisdiction.

PROTEST OF GREAT BRITAIN.

The Ukase was brought to the notice of Lord London- The protest of the British Government.
derry, Secretary of State for Foreign Affairs for Great Britain, in the letter already quoted of the 12th November, 1821, by Baron de Nicolay, then Russian Chargé d'Affaires, as connected with the territorial rights of the Russian Crown on the north-west coast of America, and with the commerce and navigation of the Emperor's subjects in the seas adjacent thereto. See Appendix, vol. ii, Part I, No. 1.

CORRESPONDENCE BETWEEN GREAT BRITAIN AND RUSSIA.

On the 18th of January, 1822, four months after the
41 issue of the Ukase, Lord Londonderry wrote in the following terms to Count Lieven, the Russian Ambassador in London:

In the meantime, upon the subject of this Ukase generally, and especially upon the two main principles of claim laid down therein, viz., an *exclusive sovereignty* alleged to belong to Russia over the territories therein described, as also the *exclusive right of navigating and trading within the maritime limits therein set forth*, His Britannic Majesty must be understood as *hereby reserving all his rights*, not being prepared to admit that the intercourse which is allowed on the face of this instrument to have hitherto subsisted on those coasts and in those seas can be deemed to be illicit, or *that the ships of friendly Powers*, even supposing an unqualified sovereignty was proved to appertain to the Imperial Crown in these vast and very imperfectly occupied terri- See Appendix, vol. ii, Part 1, No. 7.

tories, *could, by the acknowledged law of nations, be excluded from navigating within the distance of* 100 *Italian miles, as therein laid down from the coast*, the exclusive dominion of which is assumed (but as His Majesty's Government conceive in error) to belong to His Imperial Majesty the Emperor of All the Russias.

Ibid., vol. ii, Part I, No. 14.

The Duke of Wellington having been appointed British Plenipotentiary at the Congress of Verona, Mr. G. Canning, then Secretary of State for Foreign Affairs, addressed to him, on the 27th September, 1822, a despatch in which he dealt with the claim in the Ukase for the extension of territorial rights over adjacent seas to the distance—"unprecedented distance," he terms it—of 100 miles from the coast, and of closing "a hitherto unobstructed passage."

In this dispatch Mr. Canning says:

ABANDONMENT OF CLAIM TO EXTRAORDINARY JURISDICTION.

I have, indeed, the satisfaction to believe, from a conference which I have had with Count Lieven on this matter, that upon these two points,—the attempt to shut up the passage altogether, and the claim of exclusive dominion to so enormous a distance from the coast,—the Russian Government are prepared entirely to waive their pretensions. The only effort that has been made to justify the latter claim was by reference to an Article in the Treaty of Utrecht, which assigns 30 leagues from the coast as the distance of prohibition. But to this argument it is sufficient to answer, that the assumption of such a space was, in the instance quoted, by stipulation in a Treaty, and one to which, therefore, the party to be affected by it had (whether wisely or not) given its deliberate consent. No inference could be drawn from that transaction in favour of a claim by authority against all the world.

I have little doubt, therefore, but that the public notification of the claim to consider the portions of the ocean included between the
42 adjoining coasts of America and the Russian Empire as a *mare clausum*, and to extend the exclusive territorial jurisdiction of Russia to 100 Italian miles from the coast, will be publicly recalled, and I have the King's command to instruct your Grace further to require of the Russian Minister (on the ground of the facts and reasonings furnished in their [*sic*] despatch and its inclosures) that such a portion of territory alone shall be defined as belonging to Russia as shall not interfere with the rights and actual possessions of His Majesty's subjects in North America.

On the 17th October in the same year, the Duke of Wellington, at Verona, addresed to Count Nesselrode, the Russian Plenipotentiary at the Congress, a Confidential Memorandum containing the following words:

Confidential Memorandum inclosed in letter of Duke of Wellington to G. Canning, November 28, 1822. See Appendix, vol. ii, Part 1, No. 15.

Objecting, as we do, to this claim of exclusive sovereignty on the part of Russia, I might save myself the trouble of discussing the particular mode of its exercise as set forth in this Ukase, but we object to the mode in which the sovereignty is proposed to be exercised under this Ukase, not less than we do to the claim of it. *We cannot admit the right of any Power possessing the sovereignty of a country to exclude the vessels of others from the seas on its coasts to the distance of* 100 *Italian miles.*

Ibid.

In reply, Count Nesselrode communicated to the Duke of Wellington a "Confidential Memorandum" dated the 11th (23rd) November, 1822, which contains the following passages:

The Cabinet of Russia has taken into mature consideration the Confidential Memorandum forwarded to them by the Duke of Wellington on the 17th October last, relative to the measures adopted by His Majesty the Emperor, under date of the 4th (16th) September, 1821, for defining the extent of the Russian possessions on the north-west

coast of America, and for forbidding foreign vessels to approach his possessions within a distance of 100 Italian miles.

. . . It was, on the contrary, because she regarded those rights of sovereignty as legitimate, and because imperious considerations involving the very existence of the commerce which she carries on in the regions of the north-west coast of America compelled her to establish a system of precautions which became indispensable that the caused the Ukase of the 4th (16th) September, 1821, to be issued.

. . . Consequently, the Emperor has charged his Cabinet to declare to the Duke of Wellington (such declaration not to prejudice his rights in any way if it be not accepted) that he is ready to fix, by means of friendly negotiation, and on the basis of mutual accommodation, the degrees of latitude and longitude which the two Powers shall regard as the utmost limit of their possessions and of their establishments on the north-west coast of America.

43 His Imperial Majesty is pleased to believe that this negotiation can be completed without difficulty to the mutual satisfaction of the two States; and the Cabinet of Russia can from this moment assure the Duke of Wellington that the measures of precaution and supervision which will then be taken on the Russian part of the coast of America will be entirely in conformity with the rights derived from sovereignty, and with the established customs of nations, and that there will be no possibility of legitimate cause of complaint against them.

Again, on the 28th November, 1822, the Duke of Wellington addressed a note to Count Lieven, containing the following words:

The second ground on which we object to the Ukase is that His Imperial Majesty thereby excludes from a certain considerable extent of the open sea vessels of other nations. We contend that the assumption of this power is contrary to the law of nations, and we can not found a negotiation upon a paper in which it is again broadly asserted. We contend that no Power whatever can exclude another from the use of the open sea. A Power can exclude itself from the navigation of a certain coast, sea, &c., by its own act or engagement, but it can not by right be excluded by another. This we consider as the law of nations, and we can not negotiate upon a paper in which a right is asserted inconsistent with this principle.

See Appendix, vol. ii, Part I, No. 15.

At an early date in the course of the negotiations with the United States and with Great Britain the execution of the Ukase beyond the territorial limit of 3 miles was suspended. Indeed, as far as the waters of Behring Sea are concerned, it may safely be said that it was never put into practical execution beyond this limit. The note from Count Nesselrode to Mr. Middleton on the subject was dated the 1st August, 1822, and is thus alluded to by Mr. Middleton in a despatch to Mr. Adams of the 19th September, 1823:

See Appendix, vol. ii, Part I, No. 31.

American State Papers, Foreign Relations, vol. v, p. 448.

Upon Sir Charles [Bagot] expressing his wish to be informed respecting the actual state of the *north-west* question between the United States and Russia, so far as it might be known to me, I saw no objection to making a *confidential* communication to him of the note of Count Nesselrode, dated the 1st August, 1822, by which, in fact, staying the execution of the Ukase above mentioned, Russia has virtually abandoned the pretensions therein advanced.

The communication to the British Government on
44 the same subject was made in August 1823 in the shape of an extract from a despatch from Count Nesselrode to Count Lieven, dated the 26th June, 1823. The following passage in it shows how complete was the abandonment of the unusual claim of maritime jurisdiction:

See Appendix, vol. ii, Part I, No. 29.

That the Commanders of our ships of war must confine their surveillance as nearly as possible to the mainland, *i. e.*, over an extent of

sea within range of cannon-shot from the shore; that they must not extend that surveillance beyond the sphere where the American Company has effectually exercised its rights of hunting and fishing since the date of its creation, as well as since the renewal of its privileges in 1799, and that, as to the islands on which are to be found colonies or settlements of the Company, they are all indistinctively comprised in this general rule.

. . . Your Excellency will observe that these new instructions—which, as a matter of fact, are to suspend provisionally the effect of the Imperial Ukase of the 4th September, 1821—were sent from St. Petersburgh only in August of last year.

See Appendix, vol. ii, Part I, Nos. 33, 34, and 35.

Mr. Lyall, Chairman of the Ship-owners' Society, of London, wrote on the 19th November, 1823, to Mr. G. Canning, asking whether official advices had been received from St. Petersburg that the Ukase of 1821 had been annulled. Mr. Canning having privately submitted his proposed reply to Count Lieven for his comments, caused the following letter to be sent, which had received Count Lieven's approval:

Lord F. Conyngham to Mr. Lyall, November 26, 1823.

I am directed by Mr. Secretary Canning to acknowledge the receipt of your letter of the 19th instant, expressing a hope that the Ukase of September 1821 had been annulled.

See Appendix, vol. ii, Part I, No. 36.

Mr. Canning can not authorize me to state to you in distinct terms that the Ukase has been "*annulled*," because the negotiation to which it gave rise is still pending, embracing, as it does, many points of great intricacy as well as importance.

But I am directed by Mr. Canning to acquaint you that orders have been sent out by the Court of St. Petersburg to their Naval Commanders calculated to prevent any collision between Russian ships and those of other nations, and, in effect, suspending the Ukase of September 1821.

See Appendix, vol. ii, Part I, No. 37.

On the 15th January, 1824, Mr. G. Canning wrote to Sir C. Bagot, the British Ambassador at St. Petersburg:

. . . The questions at issue between Great Britain and Russia are short and simple. The Russian Ukase contains two objectionable pretensions: First, an extravagant assumption of maritime supremacy; secondly, an unwarranted claim of territorial dominions.

As to the first, the disavowal of Russia is, in substance all that we could desire. Nothing remains for negotiation on that head but to clothe that disavowal in precise and satisfactory terms. We would much rather that those terms should be suggested by Russia herself than have the air of pretending to dictate them; you will therefore request Count Nesselrode to furnish you with his notion of such a declaration on this point as may be satisfactory to your Government. That declaration may be made the preamble of the convention of limits. . . .

Again, in a despatch, 24th July, 1824, to Sir C. Bagot, Mr. G. Canning says:

See Appendix, vol. ii, Part I, No. 44.

. . . Your Excellency will observe that there are but two points which have struck Count Lieven as susceptible of any question. The first, the assumption of the base of the mountains, instead of the summit as the line of boundary; the second, the extension of the right of the navigation of the Pacific to the sea beyond Behring Straits.

* * * * . *

As to the second point, it is, perhaps, as Count Lieven remarks, new. But it is to be remarked, in return, that the circumstances under which this additional security is required will be new also.

By the territorial demarcation agreed to in this "projet," Russia will become possessed, in acknowledged sovereignty of both sides, of Behring Straits.

The Power which could think of making the Pacific a *mare clausum* may not unnaturally be supposed capable of a disposition to apply the same character to a strait comprehended between two shores of which it becomes the undisputed owner; but the shutting up of

Behring Straits, or the power to shut them up hereafter, would be a thing not to be tolerated by England.

Nor could we submit to be excluded, either positively or constructively, from a sea in which the skill and science of our seamen has been and is still employed in enterprises interesting not to this country alone, but to the whole civilized world. See *ante*, p. 32.

The protection given by the Convention to the American coasts of each Power may (if it is thought necessary) be extended in terms to the coasts of the Russian Asiatic territory; but in some way or other if not in the form now prescribed, the free navigation of Behring Straits and of the seas beyond them must be secured to us.

Mr. George Canning in a despatch to Mr. Stratford Canning, who had been appointed British Plenipotentiary for the negotiation of a Convention at St. Petersburg, under date the 8th December, 1824, after giving a summary of the negotiations up to that date, goes on to say: See Appendix, vol. ii, Part I, No. 52.

46 It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the continent of America, but the pretensions of the Russian Ukase of 1821 to exclusive dominion over the Pacific could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

You will therefore take care, in the first instance, to repress any attempt to give this change to the character of the negotiation, and will declare without reserve that the point to which alone the solicitude of the British Government and the jealousy of the British nation attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the Ukase of 1821.

That this Ukase is not acted upon, and that instructions have been long ago sent by the Russian Government to their cruisers in the Pacific to suspend the execution of its provisions, is true; but a private disavowal of a published claim is no security against the revival of that claim. The suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself, and when we have seen in the course of this negotiation that the Russian claim to the possession of the coast of America down to latitude 59° [*sic*] rests in fact on no other ground than the presumed acquiescence of the nations of Europe in the provisions of an Ukase published by the Emperor Paul in the year 1799, against which it is affirmed that no public remonstrance was made, it becomes us to be exceedingly careful that we do not, by a similar neglect, on the present occasion allow a similar presumption to be raised as to an acquiescence in the Ukase of 1821.

The right of the subjects of His Majesty to navigate freely in the Pacific can not be held as a matter of indulgence from any Power. Having once been publicly questioned, it must be publicly acknowledged.

We do not desire that any distinct reference should be made to the Ukase of 1821; but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the Convention in the place which properly belongs to it, as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the front of the Convention concluded between Russia and the United States of America; and we see no reason why upon similar claims we should not obtain exactly the like satisfaction. See *post*, p. 52.

For reasons of the same nature we cannot consent that the liberty of navigation through Bering Straits should be stated in the Treaty as a boon from Russia.

The tendency of such a statement would be to give countenance to those claims of exclusive jurisdiction against which we, on our own behalf, and on that of the whole civilized world, protest.

* * * * *

47 It will of course strike the Russian Plenipotentiaries that, by the adoption of the American Article respecting navigation, &c., the provision for an exclusive fishery of 2 leagues from the coasts of our respective possessions falls to the ground.

But the omission is, in truth, immaterial.

The law of nations assigns the exclusive sovereignty of 1 league to each Power on its own coasts, without any specific stipulation, and though Sir Charles Bagot was authorized to sign the Convention with the specific stipulation of 2 leagues, in ignorance of what had been decided in the American Convention at the time, yet, after that Convention has been some months before the world, and after the opportunity of consideration has been forced upon us by the act of Russia herself, we cannot now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contrast between the United States and us to our disadvantage.

THE TREATY (GREAT BRITAIN AND RUSSIA), FEBRUARY 28, 1825.

These negotiations resulted in a Convention with Great Britain, signed on the 28th of February, 1825, hereinafter referred to.

PROTEST OF UNITED STATES.

50th Cong., 2nd Sess., Sen. Ex. Doc. No. 106. p. 204.

On the 30th January (11th February), 1822, M. Pierre de Poletica, the Envoy Extraordinary and Minister Plenipotentiary of the Russian Emperor, transmitted the Ukase to Mr. Adams, Secretary of State for the United States.

Ibid., p. 205.

On the 25th February, 1822, Mr. Adams wrote to M. Poletica:

DEPARTMENT OF STATE,
Washington, February 25, 1822.

SIR, I have the honour of receiving your note of the 11th instant, inclosing a printed copy of the Regulations adopted by the Russian-American Company, and sanctioned by His Imperial Majesty, relating to the commerce of foreigners in the waters bordering on the establishments of that Company upon the north-west coast of America.

I am directed by the President of the United States to inform you that he has seen with surprise, in this Edict, the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on this continent, and a Regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim is made to apply. The relations of the United States with His Imperial Majesty have always been of the most friendly character; and it is the earnest desire of this Government to preserve them in that state. It was expected, before any Act
48 which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by Treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This Ordinance affects so deeply the rights of the United States and of their citizens, that I am instructed to inquire whether you are authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and Regulations contained in it.

I avail, &c.

(Signed) JOHN QUINCY ADAMS.

It will be observed that both the Ukase and the protest apply to the waters from Behring Strait southward as far as the 51st degree of latitude on the coast of America.

RUSSIAN DEFENCE OF UKASE.

On the 28th of the same month the Russian Representative replied at length, defending the territorial claim on grounds of discovery, first occupation, and undisturbed possession, and explaining the motive which determined the Imperial Government in framing the Ukase.

M. de Poletica to Mr. J. Q. Adams, February 28, 1822. American State Papers, Foreign Relations, vol. iv, pp. 861-862. See Appendix, vol. ii, Part II No. 1.

He wrote:

I shall be more succinct, sir, in the exposition of the motives which determined the Imperial Government to prohibit foreign vessels from approaching the north-west coast of America belonging to Russia within the distance of at least 100 Italian miles. This measure, however severe it may at first appear, is, after all, but a measure of prevention. It is exclusively directed against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above mentioned an illicit trade very prejudicial to the rights reserved entirely to the Russian-American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, exciting them likewise in every manner to resist and revolt against the authorities there established.

The American Government doubtless recollects that the irregular conduct of these adventurers, the majority of whom was composed of American citizens, has been the object of the most pressing remonstrances on the part of Russia to the Federal Government from the time that Diplomatic Missions were organized between the countries. These remonstrances, repeated at different times, remain constantly without effect, and the inconveniences to which they ought to bring a remedy continue to increase. . . .

UKASE BASED ON DOCTRINE OF MARE CLAUSUM.

I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend, on the north-west coast of America, from Behring Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adja-
49 cent, from the same strait to the 45th degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to *shut seas* ("mers fermées"), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities.

To this Mr. Adams replied (30th March, 1822). He said:

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 207. See Appendix, vol. ii, Part II, No. 2.

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90° of longitude, or 4,000 miles.

The Russian Representative replied to this note on the 2nd April following, and in the course of his letter he said:

M. de Poletica to Mr. J. Q. Adams, April 2, 1822. 50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 208.

In the same manner the great extent of the Pacific Ocean at the 51st degree of latitude can not invalidate the right which Russia may have of considering that part of the ocean as close. But as the Imperial Government has not thought fit to take advantage of that right, all further discussion on this subject would be idle.

As to the right claimed for the citizens of the United States of trading with the natives of the country of the north-west coast of America, without the limits of the jurisdiction belonging to Russia, the Imperial Government will not certainly think of limiting it, and still less of attacking it there. But I cannot dissemble, sir, that this same trade beyond the 51st degree will meet with difficulties and inconveniences, for which the American owners will only have to accuse their own imprudence after the publicity which has been given to the measures taken by the Imperial Government for maintaining the rights of the Russian-American Company in their absolute integrity.

I shall not finish this letter, without repeating to you, sir, the very positive assurance which I have already had the honour once of expressing to you that in every case where the American Government shall judge it necessary to make explanations to that of the Emperor, the President of the United States may rest assured that these explanations will always be attended to by the Emperor, my august Sovereign, with the most friendly and consequently the most conciliatory, dispositions.

On the 22nd July, 1823, Mr. Adams wrote to Mr. Middleton, the United States Minister at St. Petersburg, as follows:

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 210.

See Appendix, vol. ii, Part II, No. 3.

From the tenour of the Ukase, the pretentions of the Imperial Government extend to an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Asiatic coast, to the latitude of 51 north on the western coast of the American Continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the Peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of the 55th degree of latitude, and have no existence on the Continent of America.

The correspondence between M. Poletica and this Department contained no discussion of the principles or of the facts upon which he attempted the justification of the Imperial Ukase. This was purposely avoided on our part, under the expectation that the Imperial Government could not fail, upon a review of the measure, to revoke it altogether. It did, however, excite much public animadversion in this country, as the Ukase itself had already done in England. I inclose herewith the North American Review for October, 1822, No. 37, which contains an article (p. 370) written by a person fully master of the subject; and for the view of it taken in England I refer you to the 52nd number of the Quarterly Review, the article upon Lieutenant Kotzebue's voyages. From the article in the North American Review it will be seen that the rights of discovery, of occupancy, and of uncontested possession, alleged by M. Poletica, are all without foundation in fact.

* * * * *

Mr. Middleton, writing to the Secretary of State of the United States, on the 1st December, 1823, inclosed a confidential memorial which thus dealt with the claim (which is properly regarded by him as an attempt to extend territorial jurisdiction upon the theory of a shut sea and having no other basis):

American State Papers, Foreign Relations, vol. v, p. 452.

See Appendix, vol. ii, Part II, No. 5.

The extension of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts, or from those of all the intervening islands, are innovations in the law of nations, and measures unexampled. It must thus be imagined that this prohibition, bearing the pains of confiscation, applies to a long line of coasts, with the intermediate islands, situated in vast seas, where the navigation is subject to innumerable and unknown difficulties, and where the chief employment, which is the whale fishery, cannot be compatible with a regulated and well-determined *course.*

The right cannot be denied of shutting a port, a sea, or even an entire country, against foreign commerce in some particular cases. But the exercise of such a right, unless in the case of a colonial system already established, or for some other special object, would be exposed to an unfavourable interpretation, as being contrary to the liberal spirit of modern times, wherein we look for the bonds of amity and of reciprocal commerce among all nations being more closely cemented.

Universal usage, which has obtained the force of law, has established for all the coasts an accessory limit of a moderate distance, which is sufficient for the security of the country and for the convenience of its inhabitants, but which lays no restraint upon the universal rights of nations, nor upon the freedom of commerce and of navigation. (Vattel, Book I, Chapter 23, section 289.)

American State Papers, Foreign Relations, vol. v. pp. 465–466.

At the fourth Conference (8th March, 1824) which preceded the signature of the Treaty of the 5th (17th) April, 1824, Mr. Middleton, the United States Representative, submitted to Count Nesselrode the following paper:

(Translation.)

The dominion can not be acquired but by a real occupation and possession, and an intention ('animus') to establish it is by no means sufficient.

Now, it is clear, according to the facts established, that neither Russia nor any other European Power has the right of dominion upon the Continent of America between the 50th and 60th degrees of north latitude.

Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

Therefore she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and
52 to this commerce, and they can only be deprived of it by their own act or by a Convention.

CONVENTION BETWEEN THE UNITED STATES AND RUSSIA.

THE TREATY (RUSSIA AND THE UNITED STATES), APRIL 17, 1824.

For French text, see Appendix, vol. ii, Part III, No. 1. Blue Book, "United States No. 1 (1891)," p. 57. Appendix, vol. iii.

The result of these negotiations between the United States and Russia was the Convention of the 17th April, 1824, which put an end to any further pretension on the part of Russia to restrict navigation or fishing in Behring Sea, so far as citizens of the United States were concerned.

The English version of the Convention is as follows:

ARTICLE I.

NAVIGATION OF PACIFIC TO BE FREE.

It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles:

ARTICLE II.

With a view of preventing the rights of navigation and of fishing, exercised upon the Great Ocean by the citizens and subjects of the

High Contracting Powers, from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian Establishment, without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any Establishment of the United States upon the north-west coast.

ARTICLE III.

It is, moreover, agreed that hereafter there shall not be formed by the citizens of the United States, or under the authority of the said States, any Establishment upon the north-west coast of America, nor in any of the islands adjacent, to the north of 54° 40′ of north latitude; and that, in the same manner there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ARTICLE IV.

It is, nevertheless, understood that, during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.

53 ARTICLE V.

All spirituous liquors, firearms, other arms, powder, and munitions of war of every kind are always excepted from this same commerce permitted by the preceding Article; and the two Powers engage reciprocally neither to sell, or suffer them to be sold to the natives, by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the High Contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this Article, by their respective citizens or subjects.

ARTICLE VI.

When this Convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate on the one part, and on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this Convention, and thereto affixed the seals of their arms.

Done at St. Petersburgh the 5th (17th) April in the year of Grace 1824.

[L. S.] HENRY MIDDLETON,
[L. S.] Le Comte C. DE NESSELRODE.
[L. S.] PIERRE DE POLETICA.

CONVENTION BETWEEN GREAT BRITAIN AND RUSSIA.

TREATY (GREAT BRITAIN AND RUSSIA), FEBRUARY 25, 1825

For French text see Appendix, vol. ii, Part III, No. 2.

The negotiations between Great Britain and Russia resulted in the Convention of the 28th of February, 1825. The following is the English translation of this convention:

NAVIGATION OF PACIFIC TO BE FREE.

ARTICLE I.

See Blue Book, "United States No. 1 (1891)," p. 58. Appendix, vol. iii.

It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles.

54

ARTICLE II.

In order to prevent the right of navigating and fishing exercised upon the ocean by the subjects of the High Contracting Parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment without the permission of the Governor or Commandant; and, on the other hand, that Russian subjects shall not land without permission at any British establishment on the north-west coast.

ARTICLE III.

The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west, shall be drawn in the manner following:

Commencing from the southernmost part of the island called Prince of Wales Island, which point lies in the parallel of 54° 40′ north latitude, and between the 131st and the 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and, finally, from the said point of intersection, the said meridian-line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the continent of America to the north-west.

ARTICLE IV.

With reference to the line of demarcation laid down in the preceding Article, it is understood;

1st. That the island called Prince of Wales Island shall belong wholly to Russia.

2nd. That wherever the summit of the mountains which extend in a direction parallel to the coast, from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude, shall prove to be at a distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of 10 marine leagues therefrom

ARTICLE V.

It is moreover agreed that no establishment shall be formed by either of the two parties within the limits assigned by the two preceding Articles to the possessions of the other; consequently British sub-
55 jects shall not form any establishment either upon the coast or upon the border of the continent comprised within the limits of the Russian possessions, as designated in the two preceding Articles; and, in like manner, no establishment shall be formed by Russian subjects beyond the said limits.

ARTICLE VI.

It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall for ever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present Convention.

ARTICLE VII.

It is also understood that, for the space of ten years from the signature of the present Convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at lib-

erty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III, for the purposes of fishing and of trading with the natives.

ARTICLE VIII.

The port of Sitka, or Novo Archangelsk, shall be open to the commerce and vessels of British subjects for the space of ten years from the date of the exchange of the ratifications of the present Convention. In the event of an extension of this term of ten years being granted to any other Power, the like extension shall be granted also to Great Britain.

ARTICLE IX.

The above-mentioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire arms, or other arms, gunpowder, or other warlike stores; the High Contracting Parties reciprocally engaging not to permit the above-mentioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

ARTICLE X.

Every British or Russian vessel navigating the Pacific Ocean which may be compelled by storms or by accident to take shelter in the ports of the respective Parties, shall be at liberty to refit therein, to provide itself with all necessary stores, and to put to sea again, without paying any other than port and lighthouse dues, which shall be the same as those paid by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses, he shall conform himself to the Regulations and Tariffs of the place where he may have landed.

ARTICLE XI

56 In every case of complaint on account of an infraction of the Articles of the present Convention, the civil and military authorities of the High Contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial report of the matter to their respective Courts, who engage to settle the same in a friendly manner and according to the principles of justice.

ARTICLE XII.

The present Convention shall be ratified, and the ratifications shall be exchanged at London within the space of six weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done at St. Petersburgh the 16th (28th) day of February, in the year of our Lord One thousand eight hundred and twenty-five.

[L. S.] STRATFORD CANNING.
[L. S.] The Count DE NESSELRODE.
[L. S.] PIERRE DE POLITICA.

Mr. Stratford Canning to Mr. G. Canning, in his despatch of the 1st March, 1825, inclosing the Convention as signed, says:

See Appendix, vol. ii, Part I, No. 56.

With respect to Behring Straits, I am happy to have it in my power to assure you, on the joint authority of the Russian Plenipotentiaries, that the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits, or of the seas to the north of them.

Mr. S. Canning, in a further despatch to Mr. G. Canning, 3rd (15th) April, 1825, said:

Ibid., No. 57.

. . . With respect to the right of fishing, no explanation whatever took place between the Plenipotentiaries and myself in the course of our negotiations. As no objection was started by them to the

Article which I offered in obedience to your instructions, I thought it unadvisable to raise a discussion on the question; and the distance from the coast at which the right of fishing is to be exercised in common passed without specification, and consequently rests on the law of nations as generally received.

Conceiving, however, at a later period that you might possibly wish to declare the law of nations thereon, jointly with the Court of Russia, in some ostensible shape, I broached the matter anew to Count Nesselrode, and suggested that he should authorize Count Lieven, on your invitation, to exchange notes with you declaratory of the law as fixing the distance at 1 marine league from the shore.

57 Count Nesselrode replied that he should feel embarrassed in submitting this suggestion to the Emperor just at the moment when the ratifications of the Convention were on the point of being dispatched to London; and he seemed exceedingly desirous that nothing should happen to retard the accomplishment of that essential formality. He assured me at the same time that his Government would be content, in executing the Convention, to abide by the recognized law of nations; and that, if any question should hereafter be raised upon the subject, he should not refuse to join in making the suggested declaration, on being satisfied that the general rule under the law of nations was such as we supposed.

Having no authority to press the point in question, I took the assurance thus given by Count Nesselrode as sufficient, in all probability, to answer every national purpose. . . .

The claim of Russia attracted much attention at the time.

UNITED STATES INTERPRETATION OF RUSSO-AMERICAN TREATY.

President Monroe wrote to Mr. Madison on the 2nd August, 1824, with reference to the Convention of that year, to the effect that—

By this Convention the claim to the *mare clausum* is given up, a very high northern latitude is established for our boundary with Russia, and our trade with the Indians placed for ten years on a perfectly free footing, and after that term left open for negotiation. . . . England will, of course, have a similar stipulation in favour of the free navigation of the Pacific, but we shall have the credit of having taken the lead in the affair.

Wharton, Digest of International Law, section 159, vol. ii, p. 226.

In answer to the above, Mr. Madison wrote to President Monroe on the 5th August, 1824:

The Convention with Russia is a propitious event, as substituting amicable adjustment for the risk of hostile collision. But I give the Emperor, however, little credit for his assent to the principle of "*mare Liberater*" [*sic*] in the North Pacific. His pretensions were so absurd, and so disgusting to the maritime world, that he could not do better than retreat from them through the forms of negotiation. It is well that the cautious, if not courteous, policy of England towards Russia has had the effect of making us, in the public eye, the leading Power in arresting her expansive ambition.

Letters and Writings of James Madison, Philadelphia, 1865, p. 446.

THE UKASE NEVER ENFORCED.

In the year 1822 the Russian authorities attempted to enforce the provisions of the Ukase of 1821 and seized the United States brig "Pearl," when on a voyage from Boston to Sitka. The circumstances of this case are stated in the next Chapter.

See letter of S. Canning to G. Canning, April 23, 1823. Appendix, vol. ii, Part I, No. 24.

See *post*, p. 78.

58 It is sufficient for the present purpose to note that the United States at once protested, the "Pearl" was released, and compensation paid for her arrest and detention.

This is believed to be the only case in which any attempt was, in practice, made by Russia to interfere with any ship

of another nation in the waters in question outside of territorial limits.

The facts disclosed in this Chapter show—

That the Ukase of the Emperor Paul in the year 1821—the first and only attempt on the part of Russia to assert dominion over, and restrict the rights of other nations in, the non-territorial waters of the North Pacific, including those of Behring Sea—was made the subject of immediate and emphatic protest by Great Britain and the United States of America,

That Russia thereupon unequivocally withdrew her claims to such exclusive dominion and right of control.

That the Conventions of 1824 and 1825 declared and recognized the rights of the subjects of Great Britain and the United States to navigate and fish in all parts of the non-territorial waters over which the Ukase purported to extend.

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59 **CHAPTER III.**

HEAD C.—*The question whether the body of water now known as the Behring Sea is included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia.*

It will be remembered that the Ukase of 1821 included the Pacific from the Behring Strait southward to the 51st parallel, and that this claim was protested against *in toto*, on the ground that the coast was almost entirely unoccupied, and that maritime jurisdiction, even where the coast was occupied, could not extend beyond 3 miles.

In the first Articles of the Conventions of 1824 and 1825 the claim to an extraordinary jurisdiction at sea was definitely abandoned, and the abandonment was a complete withdrawal of the claim made. It was principally against this very claim that the protest of Great Britan and the United States were directed, and its relinquishment was therefore, and purposely, placed at the head of each of the resulting Conventions.

Article I of the Convention between Russia and the United States is as follows:

> It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

Article I of the Convention between Great Britain and Russia is as follows:

> It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles.

It has been contended, however, on the part of the United States, that the renunciation of claims contained in the Articles above quoted did not extend to what is now known as Behring Sea.

On this point Mr. Blaine, Secretary of State for the United States, writes:

60 The United States contends that the Behring Sea was not mentioned, or even referred to, in either Treaty, and was in no sense included in the phrase "Pacific Ocean." If Great Britain can maintain her position that the Behring Sea at the time of the Treaties with Russia of 1824 and 1825 was included in the Pacific Ocean, the Government of the United States has no well-grounded complaint against her.

Mr. Blaine to Sir J. Pauncefote, Blue Book, United States, No. 1, 1891, p. 37. See Appendix, vol. iii.

NORTH-WEST COAST.

In order to uphold the contention thus advanced by the United States, it is, however, further found necessary to maintain that the words "north-west coast" and "north-west coast of America," which frequently occur in the correspondence connected with those Conventions, refer only to a portion of the coast of the continent south of Behring Sea. This portion of the coast Mr. Blaine endeavours to define precisely in his letter, which has just been quoted, illustrating his meaning by maps, and seeking to restrict the application of the term to that part of the coast which runs southward continuously from the 60th parallel.

Ibid., p. 38.

The meaning of the phrase "Pacific Ocean" and that of the term "north-west coast" are thus intimately associated in the contention of the United States, and it will be convenient to treat them together.

MEANING OF THE PHRASE "PACIFIC OCEAN" AND THE TERM "NORTH-WEST COAST" IN THE TREATIES AND CORRESPONDENCE.

It will be found that such a construction of these phrases as Mr. Blaine has striven to place upon them cannot be reconciled with the correspondence.

M. de Poletica to Mr. Adams, February 28, 1822. See Appendix, vol. ii, Part II, No. 1.

In the first place, it has already been shown that Russia's object was not the acquisition of the control of the sea between Behring Strait and latitude 51°—this she distinctly denied—but the exclusion from her coasts in Asia and America, and on the islands, of the traders whose ventures threatened the success of the Russian-American Company.

No claim had been advanced by Russia which could possibly render a distinction between Behring Sea and the main Pacific of the slightest importance.

On the contrary, in the Ukase of 1799, Russia asserted jurisdiction over her subjects on all hunting grounds and establishments on the coast of America from the 55° north latitude to Behring Strait and thence southward to

61 Japan, and on the Aleutian, Kurile, and other Islands in all the "north-eastern" ocean.

In 1821, Russia was endeavouring to assert a title to the whole coast from Behring Strait to 51° north latitude on the American, and latitude 45° 50′ on the Asiatic coast.

Her claim to an extraordinary maritime jurisdiction over the non-territorial waters of the ocean was definitively abandoned at the outset of the negotiations, and the discussion was thenceforward confined to the protection of her rights within territorial limits.

Russia's object was the recognition and protection of the Russian Settlements in America. Accordingly, the Conventions provide against "illicit commerce," landing "at any place [from Behring Strait to the southernmost boundary] where there may be a Russian establishment without the permission of the Governor or Commandant," and against the formation of Establishments by either Power (in the respective Conventions) on territory claimed by, or conceded to, the other.

USAGE OF THE TERMS IN OFFICIAL CORRESPONDENCE.

See Appendix, vol. i, No. 1.

With the same object rules were made by Russia, headed "Rules established for the Limits of Navigation and Order of Communication along the coast of the Eastern Siberia, the *north-west-coast of America*, and the Aleutian, Kurile, and other Islands." This obviously included the American coast of Behring Sea in the term "north-west coast."

Ibid., vol. ii, Part I, No. 1.

Baron Nicolay, writing to Lord Londonderry, 31st October (12th November), 1821, says:

(Translation.)

"NORTH-WEST COAST."

The new Regulation does not forbid foreign vessels to navigate the seas which wash the Russian possessions on the *north-west coast of America* and the north-east coast of Asia.

* * * * *

On the other hand, in considering the Russian possessions which extend on the *north-west coast of America*, from Behring Strait to 51° of north latitude, and also on the opposite coast of Asia and the adjacent islands, from the same Strait to 45°, &c.

* * * * *

"PACIFIC OCEAN."

For, if it is demonstrated that the Imperial Government would, strictly speaking, have had the power to entirely close to foreigners that part of the *Pacific Ocean* on which our possessions in America and Asia border, there is all the more reason why the right, in virtue of which it has just adopted a measure much less generally restrictive, should not be called in question.

* * * * *

62 The officers commanding the Russian vessels of war, which are to see to the maintenance of the above-mentioned arrangements in the *Pacific Ocean*, have been ordered to put them into force against those foreign vessels, &c.

In this note "north-west coast of America" is mentioned three times, and in each case the coast of Behring Sea is included in the term. "Pacific Ocean" appears twice, and in both instances includes the Behring Sea.

A map, published officially by Russian authorities, of which a copy is included among the documents annexed to this Case, was forwarded from St. Petersburg by Sir Charles Bagot to Lord Londonderry, in a despatch dated the 17th November, 1821, in which it is thus described:

For map, see Appendix, vol. iv, No. 1. See Appendix, vol. ii, Part I No. 4.

I have the honour to transmit to your Lordship, under a separate cover, an English translation of the Ukase, and I at the same time inclose a map of the north-west coasts of America, and the Aleutian and Kurile Islands, which has been published in the Quartermaster-General's Department here, and upon which I have marked all the principal Russian Settlements.

"NORTH-WEST COAST."

It will be seen on reference to this map that the words "part of the north-west coast of America" include the whole coast line from a point north of Behring Straits down to latitude 54° north.

Again Lord Londonderry writes to Count Lieven:

Lord Londonderry to Count Lieven, January 18, 1822. See Appendix, vol. ii, Part I, No. 7.

The Undersigned has the honour hereby to acknowledge the note, addressed to him by Baron de Nicolay of the 12th November last, covering a copy of an Ukase issued by His Imperial Majesty the Emperor of All the Russias, and bearing date the 4th September, 1821, for various purposes, therein set forth, especially connected with the territorial rights of his Crown on the *north-western coast of America, bordering upon the Pacific*, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.

And Mr. S. Canning writing in February 1822 to Lord Londonderry from Washington, where he was then British Minister, observes:

Mr. Stratford Canning to the Marquis of Londonderry, February 19, 1822. See Appendix, vol. ii, Part I, No. 9.

I was informed this morning by Mr. Adams that the Russian Envoy has, within the last few days, communicated officially to the American Government an Ukase of the Emperor of Russia, which has lately appeared in the public prints, appropriating to the sovereignty and exclusive use of His Imperial Majesty the *north-west coast of America* down to the 51st parallel of latitude, together with a considerable portion of the opposite coasts of Asia, and the neighbouring seas to the extent of 100 Italian miles from any part of the coasts and intervening islands so appropriated. In apprising me of this circumstance,
Mr. Adams gave me to understand that it was not the intention
63 of the American Cabinet to admit the claim thus notified on the part of Russia. His objection appears to lie more particularly against the exclusion of foreign vessels to so great a distance from the shore.

Again M. de Poletica, writing to Mr. Adams on the 28th February, 1822:

See Appendix, vol. ii, Part II, No. 1.

The first discoveries of the Russians on the north-west continent of America go back to the time of the Emperor Peter I. They belong to the attempt, made towards the end of the reign of this great Monarch, to find a passage from *the icy sea* into the *Pacific Ocean*.

* * * * *

When, in 1799, the Emperor Paul I granted to the present American Company its first Charter, he gave it the exclusive possession of the *north-west coast of America*, which belonged to Russia, from the 55th degree of north latitude to Behring Straits.

* * * * *

From this faithful exposition of known facts, it is easy, sir, as appears to me, to draw the conclusion that the rights of Russia, to the extent of the *north-west coast*, specified in the Regulation of the Russian-American Company, rest, &c.

* * * *

The Imperial Government, in assigning for limits to the *Russian possessions on the north-west coast of America, on the one side Behring Straits, and on the other the 51st degree* of north latitude, has, &c.

* * * * *

"PACIFIC OCEAN."

I ought, in the last place, to request you to consider, sir, that the *Russian possessions in the Pacific Ocean extend on the north-west coast of America from Behring Straits to the 51st degree of north latitude*, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th degree.

Throughout this note the phrase "north-west coast" includes the coast of Behring Sea, and the last passage shows unmistakably that the Russians at that time regarded the Pacific Ocean as extending to Behring Strait.

The attention of the British Government was called to the Ukase by the Hudson's Bay Company in the following terms:

"NORTH-WEST COAST."

Hudson's Bay Company to the Marquis of Londonderry, March 27, 1822. See Appendix, vol. ii, Part I, No. 10.

It has fallen under the observation of the Governor and Committee of the Hudson's Bay Company that the Russian Government have made a claim to the *north-west coast of America from Behring Straits* to the 51st degree of north latitude; and in an Imperial Ukase have prohibited foreign vessels from approaching the coast within 100 miles, under penalty of confiscation.

Mr. Adams to Mr. Rush, July 22, 1823. American State Papers, Foreign Relations, vol. v, p. 446. See Appendix, vol. ii, Part II, No. 4. See Appendix, vol. i, Nos. 3 and 4.

Mr. Adams, in 1823, dealt with the Russian claim as one of exclusive territorial right on the north-west coast of America, extending, as he said, from the "northern extremity of the continent." Articles in the "North American Review" (Vol. xv, article 18), and "Quarterly Review" (1821–'22, Vol. xxvi, p. 344), published at the time of the controversy, and already referred to as mentioned with approbation by Mr. Adams, in 1824–'25, use the words "north-west coast" with the same signification.

64

American State Papers, Foreign Relations, vol. v, p. 436.

See Appendix, vol. ii, Part II, No. 3.

Mr. Adams, in his despatch of the 22nd July, 1823, to Mr. Middleton, referred to the Ukase of the Emperor Paul as purporting to grant to the American Company the "exclusive possession of the *north-west coast of America*, which belonged to Russia, from the 55th degree of *north latitude to Behring Strait*."

The fact that the whole, and not merely a particular portion, of the territorial and maritime claim advanced by the Ukase was in question, and was settled by the Treaties of 1824 and 1825, also appears from the Memorial laid by Mr. Middleton, on the part of the United States, before the Russian Government on the 17th December, 1823:

American State Papers, vol. v, p. 452.

See Appendix, vol. ii, Part II, No. 5.

With all the respect which we owe to the declared intention and to the determination indicated by the Ukase, it is necessary to examine the two points of fact; (1) *If the country to the south and east of Behring Strait, as far as the 51st degree of north latitude, is found strictly unoccupied.* (2) If there has been, latterly, a real occupation of this vast territory? . . . The conclusion which must necessarily result from these facts does not appear to establish that the territory in question had been legitimately incorporated with the Russian Empire.

The extension of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts, or from those of all the intervening islands, are innovations in the law of nations, and measures unexampled.

In the earlier part of the same paper. Mr. Middleton observes:

> The Ukase even goes to the *shutting up of a strait* which has never been till now shut up, and which is at present the principal object of discoveries, interesting and useful to the sciences.
>
> The very terms of the Ukase bear that this pretension has now been made for the first time.

"PACIFIC OCEAN."

The same appears from Mr. G. Canning's despatch to Sir C. Bagot of the 24th of July, 1824 (which has been already quoted in any other connection): See Appendix, vol. ii, Part I, No. 44.

> Your Excellency will observe that there are but two points which have struck Count Lieven as susceptible of any question. The first, the assumption of the base of the mountains, instead of the summit as the line of boundary; the second, the extension of the right *of navigation of the Pacific to the sea beyond Behring Straits.*
>
> * * * * *
>
> 65 As to the second point, it is perhaps, as Count Lieven remarks, new. But it is to be remarked, in return, that the circumstances under which this additional security is required will be new also.
>
> By the territorial demarcation agreed to in this "Projet," Russia will become possessed, in acknowledged sovereignty of both sides, of Behring Straits.
>
> The Power which could think of making the Pacific a *mare clausum* may not unnaturally be supposed capable of a disposition to apply the same character to a strait comprehended between two shores of which it becomes the undisputed owner; *but the shutting up of Behring Straits, or the power to shut them up hereafter, would be a thing not to be tolerated by England.*
>
> *Nor could we submit to be excluded, either positively or constructively, from a sea in which the skill and science of our seamen has been and is still employed in enterprises interesting not to this country alone, but to the whole civilized world.* See *ante*, p. 32.
>
> The protection* given by the Convention to the American coasts of each Power may (if it is thought necessary) be extended in terms to the coasts of the Russian Asiatic territory; but in some way or other, if not in the form now prescribed, the free navigation of *Behring Straits, and of the seas beyond them*, must be secured to us.

It would have been of little advantage to secure the right to navigate through Behring Strait unless the right to navigate the sea leading to it was secured, which would not have been the case if the Ukase had remained in full force over Behring Sea.

The frequent references to Behring Strait and the seas beyond it show that there was no doubt in the minds of the British statesmen of that day that, in obtaining an acknowledgment of freedom of navigation and fishing throughout the Pacific, they had also secured this right as far as Behring Strait.

As corroborative proof of the usual practice of the British naval authorities, in the nomenclature of these waters, reference may be made to the instructions given in 1825 by the Lords Commissioners of the Admiralty, which will be found in the "Narrative of a Voyage to the Pacific and Behring Strait," &c., under command of Captain F. W.

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*(*i. e.*) By the extension of territorial jurisdiction to two leagues, as originally proposed in the course of the negotiations between Great Britain and Russia.

Beechey, R. N., in the years 1825–26–27–28, published by authority in London, 1831.

66 These instructions from the Lords Commissioners, which are full and detailed, make reference only to Behring Strait and the Pacific Ocean, and do not mention the Sea of Kamtchatka or Behring Sea.

COMMON MEANING OF "PACIFIC OCEAN" AND "NORTH-WEST COAST."

Greenhow's works.

The works of Mr. Robert Greenhow, Translator and Librarian to the United States Department of State (well known in connection with the discussion of the "Oregon question"), afford a detailed and conclusive means of ascertaining the views officially held by the United States Government on the meaning of *Pacific Ocean*, *Behring Sea*, *North-west coast*, and the extent to which the claims made by Russia in the Ukase of 1821 were abandoned by the Convention of 1824.

"Memoir Historical and Political of the north-west coast of North America and the adjacent territories, illustrated by a map and a geographical view of these countries, by Robert Greenhow, Translator and Librarian to the Department of State." Senate, 26th Cong., 1st Session (174), 1840. The same Memoir, separately printed, apparently in identical form, and with the same map, and pagination, Wiley and Putnam, New York, 1840.

A "Memoir" was prepared by Mr. Greenhow, on the official request of Mr. L. F. Linn, Chairman of a Select Committee on the Territory of Oregon, by order of Mr. John Forsyth, Secretary of State. It includes a map entitled "The North-west Coast of North America and adjacent Territories," which extends from below Acapulco in Mexico to above the mouth of the Kuskoquim in Behring Sea, and embraces also the greater part of the Aleutian chain.

"NORTH-WEST COAST."

Touching the signification of the terms *North-west coast* and *Pacific Ocean*, and the meaning attached to the relinquishment of Russian claims by the Convention of 1824, the first part of the "Memoir," under the heading "Geography of the Western Section of North America," contains the following passage:

> The *north-west coast** is the expression usually employed in the United States at the present time to distinguish the vast portion of the American continent which extends north of the 40th parallel of latitude from the Pacific to the great dividing ridge of the *Rocky Mountains*, together with the contiguous islands in that ocean. The southern part of this territory, which is drained almost entirely by the River Columbia, is commonly called *Oregon*, from the supposition (no doubt erroneous) that such was the name applied to its principal stream by the aborigines. To the more northern parts of the continent many appellations, which will hereafter be mentioned, have been assigned by navigators and fur traders of various nations. The territory bordering upon the Pacific southward, from the 40th parallel
> 67 to the extremity of the peninsula which stretches in that direction as far as the Tropic of Cancer, is called *California*, a name of uncertain derivation, formerly applied by the Spaniards to the whole western section of North America, as that of *Florida* was

* N. B.—The *italics* in this and subsequent quotations are those employed by Greenhow himself

employed by them to designate the regions bordering upon the Alantic. The north-west coast and the west coast of California, together form the *west coast of North America;* as it has been found impossible to separate the history of these two portions, so it will be necessary to include them both in this geographical view (p. 1).

Mr. Greenhow here gives the following note:

In the following pages the term *coast* will be used, sometimes as signifying only the sea-shore, and sometimes as embracing the whole territory, extending therefrom to the sources of the river; care has been, however, taken to prevent misapprehension, where the context does not sufficiently indicate the true sense. In order to avoid repetitions, the *north-west coast* will be understood to be the *north-west coast of North America;* all *latitudes* will be taken as *north latitudes,* and all *longitudes* as *west from Greenwich,* unless otherwise expressed.

The "Memoir" continues as follows:

"PACIFIC OCEAN."

The northern extremity of the west coast of America is *Cape Prince of Wales,* in latitude 65° 52′, which is also the westernmost spot in the whole continent; it is situated on the eastern side of *Beering's Strait,* a channel 51 miles in width, connecting the Pacific with the *Arctic* [or *Icy* or *North Frozen*] *Ocean,* on the western side of which strait, opposite Cape Prince of Wales, is *East Cape,* the eastern extremity of Asia. Beyond Beering Strait the shores of the two continents recede from each other. The *north coast of America* has been traced from Cape Prince of Wales north-eastward to *Cape Barrow,* &c., pp. 3, 4.

The relations of Behring Sea to the Pacific Ocean are defined as follows in the "Memoir":

The part of the Pacific north of the Aleutian Islands which bathes those shores is commonly distinguished as the *Sea of Kamtchatka,* and sometimes *Behring Sea,* in honour of the Russian navigator of that name who first explored it (pp. 4, 5).

Again, in the "Geography of Oregon and California," Mr. Greenhow writes:

"The Geography of Oregon and California and the other territories on the northwest coast of North America," New York, 1845.

Cape Prince of Wales, the westernmost point of America, is the eastern pillar of Behring Strait, a passage only 50 miles in width, separating that continent from Asia, and forming the only direct communication between the Pacific and Arctic Oceans.

* * * * *

68 The part of the Pacific called the *Sea of Kamtchatka,* or Behring Sea, north of the Aleutian chain, likewise contains several islands, &c. (p. 4).

Greenhow's "History" was officially presented to the Government of Great Britain by the Government of the United States in July 1845, in connection with the Oregon discussion and in pursuance of an Act of Congress.*

"The History of Oregon and California and the other territories on the north-west coast of North America, by Robert Greenhow, Translator and Librarian to the Department of State of the United States; author of a Memoir Historical and Political, on the north-west coast of North America, published in 1840 by direction of the Senate of the United States." New York, 1845.

In this History the Sea of Kamtchatka, or Behring's Sea, is again referred to as a part of the Pacific Ocean.

* The following is the correspondence accompanying the presentation by the Government of the United States:

"Mr. Buchanan to Mr. Pakenham.

"DEPARTMENT OF STATE,
"Washington, July 12, 1845.

"SIR: In pursuance of an Act of Congress approved on the 20th of February, 1845, I have the honour to transmit to you herewith, for presentation to the Government of Great Britain, one copy of the 'History of Oregon, California, and the other territories on the North-west Coast

This is a second edition, and in the preface it is explained that its issue was rendered necessary to supply 1,500 copies of the work which had been ordered for the General Government.

In respect of the understanding by the United States that the claims advanced by the Ukase of 1821 had been entirely relinquished by the Russian and United States Convention of 1824, the following is found on a later page of the volume last referred to:

69

This Convention does not appear to offer any grounds for dispute as to the construction of its stipulations, but is, on the contrary, clear, and equally favourable to both nations. The rights of both parties to navigate every part of the Pacific, and to trade with the natives of any places on the coasts of that sea, not already occupied, are first distinctly acknowledged, &c. (p. 342).

The same work. First edition, London, 1844. Both editions contain maps, which appear to be identical, but different from the maps accompanying the Memoir, though including nearly the same limits with them.

It is thus clear, as the result of the investigations undertaken by Greenhow on behalf of the United States Government—

That Behring Sea was a part of the Pacific;

That the north-west coast was understood to extend to Behring Strait.

That Russia relinquished her asserted claims over "every part of the Pacific."

RUSSIAN INTERPRETATION OF "PACIFIC OCEAN."

That the phrase "Pacific Ocean" in the Treaty included Behring Sea is still further shown by the reply of the Russian Government to Governor Etholin in 1842, when he wished to keep American whalers out of Behring Sea:

Tikhmenieff. See Appendix, vol. i, No. 5.

The claim to a *mare clausum*, if we wished to advance such a claim in respect to the *northern part of the Pacific Ocean*, could not be theoretically justified. *Under Article I of the Convention of 1824 between Russia and the United States, which is still in force, American citizens have a right to fish in all parts of the Pacific Ocean.* But under Article IV of the same Convention, the ten years' period mentioned in that Article having expired, we have power to forbid American vessels to visit inland seas, gulfs, harbours, and bays for the purposes of fishing and trading with the natives. That is the limit of our rights, and we have no power to prevent American ships from taking whales in the open sea.

Ibid.

Again, in the reply of the Russian Government to representations of the Governor-General of Eastern Siberia in 1846, the following words occur:

We have no right to exclude foreign ships from *that part of the great ocean* which separates the eastern shore of Siberia from the north-western shore of America, &c.

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of America,' by Robert Greenhow, Esq., Translator and Librarian of the Department of State.

"I avail, &c. (Signed) "JAMES BUCHANAN."

"Mr. Pakenham to the Earl of Aberdeen.

"WASHINGTON, *July 29, 1845.* (Received August 16.)

"MY LORD: I have the honour herewith to transmit a copy of a note which I have received from the Secretary of State of the United States, accompanied by a copy of Mr. Greenhow's work on Oregon and California, which, in pursuance of an Act of Congress, is presented to Her Majesty's Government.

"Although Mr. Greenhow's book is already in your Lordship's possession, I think it right, in consequence of the official character with which it is presented to forward to your Lordship the inclosed volume, being the identical one which has been sent to me by Mr. Buchanan.

"I have not failed to acknowledge the receipt of Mr. Buchanan's note in suitable terms.

"I have, &c. (Signed) "R. PAKENHAM."

The instructions which were finally issued to the Russian cruisers on the 9th December, 1853, are to the same effect.

INTERPRETATION IN THE UNITED STATES.

The Legislature of the Territory of Washington, in 1866, referred to "fishing banks known to navigators to exist along the Pacific coast from the Cortes bank to Behring Strait." See *post*, p. 99.

70 It is clear that the Honourable Charles Sumner, when proposing to the Senate, in the year 1867, the adoption of the Treaty of Cession of Alaska, understood the words "North Pacific" in the sense in which these words are defined by the authorities just cited. In his speech on that occasion, Mr. Sumner thus referred to the waters in question:

Sea-otter seems to belong exclusively to the North Pacific. . . . Its present zone it between the parallels of 60° and 65° north latitude on the American and Asiatic coasts, so that its range is very limited. See Appendix, vol. i, No. 6.

Mr. H. W. Elliott, who was engaged in the study of the seal islands of Alaska for the United States Government as late as the year 1881, in his official Report on the seal islands of Alaska, remarks concerning the seals: Report on the Seal Islands of Alaska, Washington, 1881, pp. 6, 7.

Their range *in the North Pacific* is virtually confined to four islands in Bering Sea, namely, St. Paul and St. George, of the tiny Pribilof group, and Bering and Copper of the Commander Islands.

Again, he says:

In the North Atlantic no suitable territory for their reception exists, or ever did exist; and really nothing *in the North Pacific* beyond what we have designated in Bering Sea.

He also describes the rookeries in Behring Sea as "North Pacific rookeries."

And writes further:

Geographically, as well as in regard to natural history, Bering Island is one of the most curious islands in the *northern part of the Pacific Ocean*. Ibid., p. 110.

The above are, however, only a few from among very many similar instances which might be quoted of the continued usage of the name "Pacific Ocean" as including Behring Sea.

In 1882, a notice which affected part of Okhotsk and Behring Seas was published by A. K. Pelikan, His Royal and Imperial Majesty's Consul, Yokohama, on the 15th November, 1881, from which the following is an extract:

At the request of the local authorities of Behring and other islands, the Undersigned hereby notifies that the Russian Imperial Government publishes for general knowledge the following: 50th Cong., 2nd Sess., Sen. Ex. Doc. No. 106, p. 259.

71 "PACIFIC."

"1. Without a special permit or licence from the Governor-General of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the north-eastern coast of Asia, or within their sea boundary line."

In the correspondence between the United States and Russia, touching the *meaning of* this Regulation, the

notice is alluded to by M. de Giers as "relative to fishing, hunting, and to trade in the Russian waters of the Pacific," and as relative to fishing and hunting in "our Pacific waters."

In the same correspondence the Secretary of State of the United States and the United States Minister at St. Petersburg similarly speak of "Pacific Coast fisheries" and "our Pacific Ocean fisheries."

Writing on the 8th (20th) May, 1882, to Mr. Hoffman, the American Minister at St. Petersburg, M. de Giers, said:

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 262.
See Appendix, vol. ii, Part II, No. 16.

> Referring to the exchange of communications which has taken place between us on the subject of a notice published by our Consul at Yokohama relative to fishing, hunting, and to trade *in the Russian waters of the Pacific*, and in reply to the note which you addressed to me, dated the 15th (27th) March, I am now in a position to give you the following information:
>
> A notice of the tenour of that annexed to your note of the 15th March was, in fact, published by our Consul at Yokohama, and our Consul-General at San Francisco is also authorized to publish it.
>
> This measure refers only to prohibited industries and to the trade in contraband; the restrictions which it establishes extend strictly to the territorial waters of Russia only. It was required by the numerous abuses proved in late years, and which fell with all their weight on the population of our sea-shore and of our islands, whose only means of support is by fishing and hunting. These abuses inflicted also a marked injury on the interests of the Company to which the Imperial Government has conceded the monopoly of fishing and hunting ("exportation"), in islands called the "Commodore" and the "Seals."
>
> Beyond this new Regulation, of which the essential point is the obligation imposed upon captains of vessels who desire to fish and to hunt in the *Russian waters of the Pacific* to provide themselves at Vladivostock with the permission or licence of the Governor-General of Oriental Siberia, the right of fishing, hunting, and of trade by foreigners in our territorial waters is regulated by Article 560, and those following, of vol. xii, Part II, of the Code of Laws.
>
> Informing you of the preceding, I have, &c.

72 Bancroft writes, in his "History of Alaska" (pp. 19, 20): "The Anadir, which empties into the Pacific." Again: "Thus the Pacific Ocean was first reached by the Russians on the shore of the Okhotsk Sea." And yet again: "The ascent of the Lena brought the Russians to Lake Baikal, and showed them another route to the Pacific, through China by way of the Amoor."

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 268.
See Appendix, vol. ii, Part II, No. 18.

So, in 1887, it is found that the American Representative at St. Petersburg informed Mr. Bayard (17th February, 1887) that the notice already quoted prohibits fishing, &c., on "the Russian Pacific coasts." This correspondence related to a seizure which had been made in Behring Straits.

GEOGRAPHICAL USE OF "PACIFIC OCEAN" AND "NORTH-WEST COAST."

In the discussion of the question of jurisdiction between the United States and Great Britain, special reference has been made by the United States to the marking of maps, from which it has been insisted that the waters of Behring Sea had been given a name distinct from that of the Pacific Ocean.

From this it was urged that the words "Pacific Ocean" in the Conventions were used with great care, so as to reserve under the exclusive jurisdiction of Russia the waters of Behring Sea.

It is, however, to be noted in studying any series of maps chronologically arranged, particularly those published before the middle of the present century, that Behring Sea is frequently without any special name, though the adjoining Sea of Okhotsk is in almost every instance clearly designated.

On various charts issued by the United States Hydrographic Office, including the latest and most perfect editions now in actual use, the expression "Pacific" or "North Pacific Ocean" is used as including Behring Sea. This appears from the titles of such charts, of which the following may be referred to:

No. 909. Published March 1883 at the Hydrographic Office, Washington, D. C.:

"Pacific Ocean. Behring Sea, Plover Bay, from a survey by Lieutenant Maximov, Imperial Russian Navy, 1876."

(Plover Bay is situated on the Asiatic coast, near the entrance to Behring Strait.)

73 No. 910. Published October 1882 at the Hydrographic Office, Washington, D. C.:

"North Pacific Ocean. Anadir Bay, Behring Sea. From a Chart by Engineer Bulkley, of New York, in 1865," &c.

(Anadir Bay is situated between latitudes 64° and 65° on the Asiatic side of Behring Sea.)

Similar evidence is afforded by the title page of the work issued by the same Hydrographic Office in 1869, as follows:

"Directory of Behring Sea and the coast of Alaska. . . . Arranged from the Directory of the Pacific Ocean."

The British Admiralty Chart of Behring Sea, corrected up to November, 1889, but originally compiled in 1884 (No. 2460), is likewise entitled as follows:

"North-west Pacific. Kamchatka to Kadiak Island, including Behring Sea and Strait."

The definitions touching the Pacific Ocean, Behring Sea, &c., to be found in gazetteers, dictionaries, and geographical works, both of the present and past dates, moreover, show conclusively that Behring Sea was, at the time of the Conventions, and is now, understood to form an integral part of the Pacific Ocean.

Such formal definitions are naturally more trustworthy than inferences drawn from the construction of maps.

A few of these will suffice, though many more might be quoted:

Beering's Straits, which is the passage from the North Pacific Ocean to the Arctic Sea. — Malham, John, "Naval Gazetteer," London, 1795.

Beering's Island. An island in the Pacific Ocean. — Brookes, R., "General Gazetteer," 12th ed., London, 1802.

Kamschatka. Bounded east and south by Pacific.

Stilles Meer. Vom 5 nordl. Br. an bis zur Beringsstrasse aufwarts stets heftige Sturme. — Galletti, J. G. A., "Allgemeines Geographisches Wörterbuch," Pesth, 1822.

"Dictionnaire Géographique Universel," Tom. iv, Paris, 1823–33. Mer Pacifique. Il s'étend du nord au sud depuis le Cercle Polaire Arctique, c'est-à-dire, depuis le Détroit de Behring, qui le fait communiquer à l'Océan Glacial Austral.

Seitz, Dr. J. C., "Geographisches Statistiches Handwörterbuch," Bd. iii, Pesth, 1822, Halberstadt, 1829. Stilles Meer. Vom 30 südlicher Breite bis zum 5 nördlicher Breite verdient es durch seine Heiterkeit und Stille den namen des Stillen Meers; von da an bis zur Beringsstrasse ist es heftigen Stürmen unterworfen.

Arrowsmith, "Grammar of Modern Geography," London, 1832. Bhering's Strait connects the Frozen Ocean with the Pacific.

The Anadir flows into the Pacific Ocean.

The principal gulfs of Asiatic Russia are: the Gulf of Anadir, near Bhering's Strait; the Sea of Penjina, and the Gulf of Okhotsk, between Kamtchatka and the mainland of Russia—all three in the Pacific Ocean.

"Précis de la Géographie Universelle," par Malte-Brun, Tom. ii, p. 181, Paris, 1831–37. 74 L'Océan Pacifique Boréal s'étend depuis le Détroit de Behring jusqu'au Tropique de Cancer.

Ibid., Tom. viii, p. 4. Le Détroit de Behring. A commencer par ce détroit, le Grand Océan (ou Océan Pacifique) forme la limite orientale de l'Asie.

Langlois, "Dictionnaire de Géographie," Tom. i, Paris, 1838. Behring (détroit célèbre). Il joint l'Océan Glacial Arctique au Grand Océan.

"Penny Cyclopædia," vol. xvii, London, 1840. The Pacific Ocean. Its boundary-line is pretty well determined by the adjacent continents, which approach one another towards the north, and at Behring's Strait which separates them, are only about 36 miles apart. This strait may be considered as closing the Pacific on the north.

"Dictionnaire Universel d'Histoire et de Géographie," par M. N. Bouillet, Paris, 1842. Behring (Détroit de) à l'extrémité nord-est de l'Asie, sépare ce continent de l'Amérique et l'Ocean Glacial Arctique de l'Océan Pacifique.

Behring (Mer de), partie de l'Océan Pacifique.

"Dictionnaire Géographique et Statistique," par Adrien Guibert. Tom. i, Paris, 1850. Behring (Détroit de). Canal de l'Océan . . . . unissant les eaux de l'Océan Pacifique à celles de l'Océan Arctique.

"The New American Cyclopædia," edited by George Ripley and Charles A. Dana, New York, 1851. Pacific Ocean. Between longitude 70° west and 110° east, that is, for a space of over 180°, it covers the greater part of the earth's surface, from Behring's Straits to the Polar Circle, that separates it from the Antartic Ocean.

"Harper's Statistical Gazetteer of the World," vol. i, by J. Collins Smith, New York, 1855. Behring Sea is that part of the North Pacific Ocean between the Aleutian Islands in latitude 55° north and Behring Strait in latitude 66° north, by which latter it communicates with the Arctic Ocean.

Imperial Gazetteer, vol. i, Glasgow, 1855. Behring Sea, sometimes called the Sea of Kamtchatka, is that portion of the North Pacific Ocean lying between the Aleutian Islands and Behring's Strait.

"Grand Dictionnaire de Géographie Universelle," par S. N. Beschercile, Tom. i, Paris, 1856–57. Behring (Détroit de). Canal du Grand Océan unissant les eaux de l'Océan Pacifique à celles de l'Océan Glacial Arctique.

McCulloch's "Geographical Dictionary," edited by F. Martin, vol. iii, London, 1866. Pacific Ocean. Its extreme southern limit is the Antarctic Circle, from which it stretches northward through 132° of latitude to Behring's Strait, which separates it from the Arctic Ocean.

"Grand Dictionnaire Universel," par P. La Rousse, Tom. ii, Paris, 1866–76. Behring (Détroit de). Canal ou bras de mer unissant les eaux de l'Océan Glacial Arctique à celles de l'Océan Pacifique.

St. Martin, "Nouveau Dictionnaire de Géographie Universelle," Tom. i, Paris, 1879. Behring (Détroit de). Passage qui unit l'Océan Glacial Arctique au Grand Océan.

Behring Sea, or Sea of Kamchatka, is that part of the North Pacific Ocean between the Aleutian Islands in latitude 55° north and Behring Strait in latitude 66° north, by which latter it communicates with the Arctic Ocean.

Lippincott's "Gazetteer of the World," Philadelphia, 1880.

Beringsstrasse. Meerenge das nordöstlichste Eismeer mit dem Stillen Ocean verbindend.

Ritter's "Geographisch Statistisch Lexicon," Bd. i, Leipzig, 1883.

Behring's Strait, connecting the North Pacific with the Arctic Ocean.

Blackie's "Modern Cyclopædia," vol. i, London, 1889 edition.

Behring's Sea, sometimes called the Sea of Kamchatka, is that portion of the North Pacific Ocean lying between the Aleutian Islands and Behring's Strait.

5 VIEWS OF ENGLISH AND AMERICAN JURISTS.

Finally, a few passages may be quoted from English and American publicists of acknowledged eminence, to show the manner in which the general question has been viewed by them.

Dr. T. D. Woolsey, President of Yale College, "Introduction to the Study of International Law," 3rd edition, New York, 1872, p. 83:

Woolsey, "Introduction to International Law," 3rd edition, New York, 1872, p. 83.

Russia, finally, at a more recent date, based an exclusive claim to the Pacific, north of the 51st degree, upon the ground that this part of the ocean was a passage to shores lying exclusively within her jurisdiction. But this claim was resisted by our government, and withdrawn in the temporary convention of 1824. A treaty of the same tenor with Great Britain in 1825 contains similar concessions.

In referring to the Russian Ukase of 1821, Wharton, "Digest of International Law of the United States," Washington, 1886, vol. i, section 32, p. 3, speaks of Russia—

Wharton, "Digest of International Law," Washington, 1886, vol. i, section 32, p. 3.

Having asserted in 1822 to 1824 an exclusive jurisdiction over the *north-west coast and waters of America from Behring Strait to the fifty-first degree of north latitude.*

Mr. Davis, Assistant Professor of Law at the United States Military Academy, "Outlines of International Law," New York, 1887, p. 44:

Davis, "Outlines of International Law," New York, 1887, p. 44.

Russia, in 1822, laid claim to exclusive jurisdiction over that part of the Pacific Ocean lying north of the 51st degree of north latitude, on the ground that it possessed the shores of that sea on both continents beyond that limit, and so had the right to restrict commerce to the coast inhabitants.

A recent United States writer, Professor J. B. Angell, discussing this subject, says:

Jas. B. Angell, in the "Forum," November 1889; "American Rights in Behring Sea."

The Treaty of 1824 secured to us the right of navigation and fishing in any part of the great ocean, commonly called the Pacific Ocean, or South Sea, and (in Article IV) for ten years that of frequenting the interior seas, gulfs, harbours, and creeks upon the coast for the purpose of fishing and trading. At the expiration of ten years Russia refused to renew this last provision, and it never was formally renewed. But, for nearly fifty years at least, American vessels have been engaged in taking whales in Behring Sea without being disturbed by the Russian Government. Long before the cession of Alaska to us, hundreds of our whaling vessels annually visited the Arctic Ocean and Behring Sea, and brought home rich cargoes. It would seem, therefore, that Russia regarded Behring Sea as a part of the Pacific Ocean, and not as one of the "interior seas," access to which was forbidden by the termination of the IVth Article of the Treaty.

See Appendix, vol. i, No. 8.

76 Sir R. Phillimore, in the 2nd edition of "Commentaries upon International Law," vol. i, p. 241, remarks:

Phillimore, "International Law," 2nd edition, vol. i, p. 241. (3rd edition, p. 290).

In 1822 Russia laid claim to a sovereignty over the Pacific Ocean north of the 51st degree of latitude; but the Government of the United States of America *resisted this* claim as contrary to the principles *of international law.*

Hall, "International Law," 3rd edition, p. 147.

Mr. W. E. Hall, "Principles of International Law," Clarendon Press, Oxford, 3rd edition, 1890, p. 147:

NOTE.—A new claim subsequently sprung up in the Pacific, but it was abandoned in a very short time. The Russian Government pretended to be Sovereign over the Pacific north of the 51st degree of latitude, and published an Ukase in 1821 prohibiting foreign vessels from approaching within 100 Italian miles of the coasts and islands bordering upon or included in that portion of the ocean. This pretension was resisted by the United States and Great Britain, and was wholly given up by Conventions between the former Powers and Russia in 1824 and 1825.

The arguments contained in the foregoing chapter establish—

That the Treaty of 1825 between Great Britain and Russia applied, and was intended to apply, to all the non-territorial waters of the North Pacific, extending from Behring Strait upon the north to latitude 51° upon the coast of America, and to latitude 45° 50′ upon the coast of Asia (being the whole extent of sea covered by the Ukase). That at no stage of the controversy was any distinction drawn, or intended to be drawn, between the seas to the north and the seas to the south of the Aleutian Islands.

That Behring Sea was included in the phrase "Pacific Ocean" as used in the Treaty of 1825.

That the expression "north-west coast of America" or, in its abbreviated form, "north-west coast" included the coast up to Behring Strait.

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77 **CHAPTER IV.**

HEAD (D).—*The User of the Waters in question from 1821 to 1867.*

As regards the user of the waters in question, it has been shown that down to the year 1821 Russia made no attempt in practice to assert or exercise jurisdiction over foreign vessels when beyond the ordinary territorial jurisdiction. With the exception of the incidents connected with the Ukase of 1821, already referred to in Chapter II, the same is true of the period between 1821 and 1867.

HISTORICAL OUTLINE.

To resume the historical statement in chronological order—

Alaska, pp. 534, 535.

In the year 1821 Mouravief was sent out to take control at Sitka under the new Charter. He assumed the name of "Governor" in place of that of "Chief Manager," which had previously been employed.

North-west Coast, vol. i, pp. 340, 341.

The names of seven trading vessels on the north-west coast are known for this year.*

Alaska, pp. 537–539.

In 1822, the Russian vessel "Rurik" arrived at Sitka from Kronstadt with supplies. About the close of the

* See note on p. 19 referring to trading vessels on the north-west coast. None of these trading vessels were Russian.

ar the Russian sloop-of-war "Apollon" also arrived, th instructions that all trade with foreigners should ase. This interdict remained in force for two years, d seriously interfered with the profits of the Company.

this year also the Russian sloops-of-war "Kreisser" d "Ladoga" arrived to enforce the provisions of the kase and remained for two years. Ibid., p. 540.

An exploratory expedition, which remained absent two ars, was dispatched from Sitka to the eastern shore of hring Sea. Ibid., p. 546.

In 1823, a famine was feared at Sitka and on the coast, d the "Rurik" and an American vessel which had been rchased, were sent to California and the Sandwich Islands : supplies. Ibid., pp. 536-539.

Referring to this incident, Bancroft writes:

> As in this instance, the Colonies had frequently been relieved from want by trade with foreigners; and, indeed this was too often the only means of averting starvation. Even between 8 and 1822, when supplies were comparatively abundant, goods, sisting mainly of provisions, were obtained by traffic with Ameri- and English coasters to the value of more than 300,000 roubles scrip. Ibid., p. 538.

In the same year, the "Rob Roy," from Boston, is known have been on the north-west coast. North-west Coast, vol. i, p. 341.

In 1824, Kotzebue, in the "Predpriatie," called at Sitka. Alaska, p. 540.

out this time the shareholders of the Russian Company otested against the interdict of foreign trade, and Sitka is, in consequence, again opened to such trade. Ibid., p. 541.

Acting under the authority of the Ukase of 1821, the nited States brig "Pearl," when on a voyage from Boston Sitka, had been in the year 1822 seized by the Russian op "Apollon." Count Nesselrode, in his despatch to unt Lieven (26th June, 1823), when communicating the spension of the Ukase of 1821, says the advices to this ect were sent from St. Petersburg in August of 1823, d that the officer of the "Apollon" could not receive em before September, 1824, and that, therefore, he could t have known of them at the "time of the occurrence the incident reported by the American press." Dall's Alaska, pp. 233, 234. See Appendix, vol. ii, Part I, No. 29.

In 1824, the "Pearl" was released, and compensation was id for her arrest and detention. As to the "Pearl," see S. Canning to G. Canning, April 23, 1823. Appendix, vol. ii, Part I, No. 24.

In the same year four vessels are recorded as having sited the north-west coast, and some of them are known have repeated their visits in later years. North-west Coast, vol. i, p. 341. Alaska, p. 539. Ibid., p. 544.

In 1825, the "Elena" arrived at Sitka with supplies. otzebue also again called at Sitka. North-west Coast, vol. i, p. 341.

Remonstrances were addressed by the Russian-American mpany to the Russian Government as to the effect of e Conventions of 1824 and 1825. The name of but one ssel trading on the north-west coast has been preserved this year. Alaska, p. 582.

In 1826, Chistiakof wrote to the Directors of the Com- ny asking that an experienced whaling master should be nt out. In July of this year Her Majesty's ship "Blos- m," under Captain Beechey, sailed through Behring Sea to the Arctic Ocean. Beechey's Voyage to the Pacific and Behring Strait, London, 1831, vol. ii, p. 335.

Alaska, p. 546. 79 In 1827, Lütke, sent by the Russian Government, arrived at Sitka, and thereafter made explorations in the Aleutian Islands and in Behring Sea.

North-west Coast, vol. i, p. 341. Two vessels only of the trading fleet on the north-west coast are in this year known by name.

Alaska, p. 546. In 1828, two vessels belonging to Lütke's expedition carried on surveys in Behring Sea. The trading vessel "Eliza" was at Sitka in this year.

Letter of Brewer to Amory. H. R., Ex. Doc., 40th Cong., 2nd Sess., No. 177, p. 85. In the years 1826, 1827, and 1828 the "Chinchella," a United States brig, Thomas Meek, master, was trading between Sitka and China.

Alaska, p. 565. In 1829, a Russian vessel was sent from Sitka to Chile to trade. Some explorations were also made by the Russians in the inland country.

Ibid., p. 547. In 1830, explorations were made in Behring Sea by Etholen. Wrangell relieved Chistiakof in command. The

North-west Coast, vol. i, p. 341. names of four or five foreign vessels trading on the north-west coast in this and the following year are recorded.

Alaska, pp. 548–552. In 1832 or 1833, Tebenkof established a post near the mouth of the Yukon, and explorations were conducted inland.

Ibid., p. 555. In 1833, the Hudson's Bay Company sent the British vessel "Dryad" to form an Establishment at the mouth of the Stikine, but Wrangell, having heard of the enterprise, occupied the place in advance, and turned the vessel back. Damages to the amount of £20,000 were claimed through

See *post*, p. 83. the British Government from Russia. This will be referred to later.

Ibid., p. 583. A United States whaling master, under a five years' Contract with the Russian Company, arrived at Sitka, but achieved little.

North-west Coast, vol. i, p. 341. In 1834, the name of but one of the foreign vessels trading on the north-west coast is recorded.

Ibid., pp. 341, 342. In 1836, the "Eliza" was again at Sitka, and three foreign trading vessels are recorded to have visited the Alaskan coast.

CASE OF THE "LORIOT."

In the same year the United States brig "Loriot" sailed from the Sandwich Islands for the north-west coast
80 of America for the purpose of procuring provisions, and also Indians to hunt for sea-otters on the coast. When in the Harbour of Tuckessan, latitude 54° 55′ north, and longitude 132° 30′ west, a Russian armed brig ordered the "Loriot" to leave. This action was based on the expiration of the period named in the IVth Article of the Treaty, whereby, for ten years only, liberty to touch and trade at Russian Establishments on the coast was granted.

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 233. The United States protested against the interference with the "Loriot," characterizing it as an "outrage," and the following is an extract from instructions which were

See Appendix, vol. ii, Part II, No. 6. sent by the United States Secretary of State to Mr. Dallas, the Minister at St. Petersburg, under date 4th May, 1837:

> On the other hand, should there prove to be no Russian Establishments at the places mentioned, this outrage on the "Loriot" assumes a still graver aspect. It is a violation of the right of the citizens of the United States, immemorially exercised, and secured to them as well

by the law of nations as by the stipulations of the 1st Article of the Convention of 1824, to fish in those seas, and to resort to the coast, for the prosecution of their lawful commerce upon points not already occupied. As such, it is the President's wish that you should remonstrate, in an earnest but respectful tone, against this groundless assumption of the Russian Fur Company, and claim from His Imperial Majesty's Government for the owners of the brig "Loriot," for their losses and for the damages they have sustained, such indemnification as may, on an investigation of the case, be found to be justly due to them.

Mr. Dallas subsequently wrote that he was led to believe that Russian Establishments had been made at the places mentioned. Nevertheless, the United States contended that at the expiration of the IVth Article, the law of nations practically gave United States ships the privileges therein mentioned.

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 234. See Appendix, vol. ii, Part II, No. 7.

Ibid., p. 236. See Appendix, vol. ii, Part II, No. 8.

Mr. Dallas (16th August, 1837) wrote to the Secretary of State:

The 1st Article asserts for both countries general and permanent rights of navigation, fishing, and trading with the natives, upon points not occupied by either, north or south of the agreed parallel of latitude.

Ibid., p. 234. See Appendix, vol. ii, Part II, No. 7.

Mr. Forsyth, Secretary of State for the United States, writing to Mr. Dallas on the 3rd November, 1837, and
81 referring to the 1st Article of the Convention of April, 1824, between the United States and Russia, said:

Ibid., p. 236. See Appendix, vol ii, Part II, No. 9.

The 1st Article of that instrument is only declaratory of a right which the parties to it possessed under the law of nations without conventional stipulations, to wit, to navigate and fish in the ocean upon an unoccupied coast, and to resort to such coast for the purpose of trading with the natives.

* * * * *

The United States, in agreeing not to form new establishments to the north of latitude 54° 40′ N., made no acknowledgment of the right of Russia to the territory above that line.

And again:

It can not follow that the United States ever intended to abandon the just right acknowledged by the 1st Article to belong to them under the law of nations—to frequent any part of the unoccupied coast of North America for the purpose of fishing or trading with the natives. All that the Convention admits is an inference of the right of Russia to acquire possession by settlement north of 54° 40′ N. Until that actual possession is taken, the 1st Article of the Convention acknowledges the right of the United States to fish and trade as prior to its negotiation.

In his despatch of the 23rd February, 1838, Count Nesselrode, the Russian Foreign Minister, wrote to Mr. Dallas:

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 238. See Appendix, vol. ii, Part II, No. 10.

It is true, indeed, the 1st Article of the Convention of 1824, to which the proprietors of the "Loriot" appeal, secures to the citizens of the United States entire liberty of navigation in the Pacific Ocean, as well as the right of landing without disturbance upon all points on the north-west coast of America, not already occupied, and to trade with the natives.

Again, Mr. Dallas, in a despatch to Count Nesselrode, dated the 5th (17th) March, 1838, interpreted Article I of the Convention as being applicable to *any part of the Pacific Ocean*. He wrote:

. . . The right of the citizens of the United States to navigate the Pacific Ocean, and their right to trade with the aboriginal natives of the north-west *coast of America*, without the jurisdiction of other

Ibid., p. 241. See Appendix, vol. ii, Part II, No. 11.

nations, are rights which constituted a part of their independence as soon as they declared it. They are rights founded in the law of nations, enjoyed in common with all other independent sovereignties,
82 and incapable of being abridged or extinguished, except with their own consent. It is unknown to the Undersigned that they have voluntarily conceded these rights, or either of them, at any time, through the agency of their Government, by Treaty or other form of obligation, in favour of any community.

* * * * *

There is first a mutual and permanent agreement declaratory of their respective rights, without disturbance or restraint, to navigate and fish in any part of the Pacific Ocean, and to resort to its coasts upon points which may not already have been occupied, in order to trade with the natives. These rights pre-existed in each, and were not fresh liberties resulting from the stipulation. To navigate, to fish, and to coast, as described, were rights of equal certainty, springing from the same source, and attached to the same quality of nationality. Their exercise, however, was subjected to certain restrictions and conditions, to the effect that the citizens and subjects of the contracting sovereignties should not resort to points where establishments existed without obtaining permission; that no future establishments should be formed by one party north, nor by the other party south, of 54° 40′ north latitude; but that, nevertheless, both might, for a term of ten years, without regard to whether an establishment existed or not, without obtaining permission, without any hindrance whatever, frequent the interior seas, gulfs, harbours, and creeks, to fish and trade with the natives. This short analysis leaves, on the question at issue, no room for construction.

* * * * *

The Undersigned submits that in no sense can the fourth Article be understood as implying an acknowledgment, on the part of the United States, of the right of Russia to the possession of the coast above the latitude of 54° 40′ north.

President Van Buren's Message, December 3, 1838, State Papers, by Hertslet, vol. xxvi, p. 1330.

In transmitting the papers relative to the "Loriot" to Congress, the President of the United States observed:

The correspondence herewith communicated, will show the grounds upon which we contend that the citizens of The United States have, independent of the provisions of the Convention of 1824, a right to trade with the natives upon the coast in question at unoccupied places, liable, however, it is admitted, to be at any time extinguished by the creation of Russian establishments at such points. This right is denied by the Russian Government, which asserts that, by the operation of the Treaty of 1824, each party agreed to waive the general right to land on the vacant coasts on the respective sides of the degree of latitude referred to, and accepted, in lieu thereof, the mutual privileges mentioned in Article IV. The capital and tonnage employed by our citizens in their trade with the north-west coast of America
83 will, perhaps, on adverting to the official statements of the commerce and navigation of the United States for the last few years, be deemed too inconsiderable in amount to attract much attention; yet the subject may, in other respects, deserve the careful consideration of Congress.

HISTORICAL OUTLINE CONTINUED.

To return again to the chronological order of events—

North-west Coast, vol. i, p. 342.

In 1837, one foreign trading vessel is named as having been on the north-west coast.

Alaska, pp. 552, 553.

In 1838, further explorations were undertaken in the north by Chernof and Malakhof. Three foreign trading vessels are noted as having been on the north-west coast

North-west Coast, vol. i, p. 342.

in this year, and one is known to have visited Alaskan waters.

Alaska, pp. 556, 557.

In 1839, a Commission met in London to arrange the dispute between the Hudson's Bay and Russian-American

Companies, arising out of the interference by Russian officials with the British vessel "Dryad." The claim for damages by the former Company was waived, on condition that the latter should grant a lease of all their continental territory northward to Cape Spencer, Cross Sound (about latitude 58°), on a fixed rental. This arrangement was for ten years, but was renewed, and actually continued in force for twenty-eight years.

In 1840, the British flag was hoisted and saluted at the mouth of the Stikine, the Hudson's Bay Company taking possession. A post was also established by the Company at Taku Inlet. Ibid. p. 557.

At this time whalers were just beginning to resort to Behring Sea; from 1840 to 1842 a large part of the fleet was engaged in whaling on the "Kadiak grounds." Writing in 1842, Etholen says, that for some time he had been constantly receiving reports from various parts of the Colony of the appearance of American whalers in the neighbourhood of the shores. Ibid., p. 583, Tikhmenieff. See Appendix, vol. i, No. 5.

In the same year Etholen relieved Kuprianof as Governor at Sitka. Alaska, p. 559.

In 1841, the Charter of the Russian-American Company was renewed for a further term of twenty years. Etholen reported the presence of fifty foreign whalers in Behring Sea. Ibid., p. 568.

In 1842, according to Etholen, thirty foreign whalers were in Behring Sea. Ibid., p. 583.

He asks the Russian Government to send cruisers to preserve this sea as a *mare clausum*.

84 His efforts were, however, unsuccessful, the Minister for Foreign Affairs replying that the Treaty between Russia and the United States gave to American citizens the right to engage in fishing over the whole extent of the Pacific Ocean.

In the same year, inland explorations by Zagoskin, which continued till 1844, began. Sir George Simpson, Governor of the Hudson's Bay Company, reached the Stikine post just in time to prevent an Indian uprising. He also visited the Russian Establishment at Sitka and completed an arrangement between the Companies to interdict trade in spirits on the coast. Alaska, pp. 553, 554. Ibid., pp., 558-560.

About this time the Russian-American Company became alarmed at the danger to their fur trade. Every effort was, therefore, put forward by the Company and the Governors to induce the Foreign Office of the Russian Government to drive off these whalers from the coasts, and by excluding them for a great distance from shore, prevent trespasses on shore and the traffic in furs.

In 1843, explorations were carried out by the Russians on the Sustchina and Copper Rivers. Ibid., p. 576.

The whalers, from 1843 to 1850, landed on the Aleutian and Kurile Islands, committing depredations. United States captains openly carried on a traffic in furs with the natives. Tikhmenieff writes: Ibid., pp. 583, 584.

From 1843 to 1850 there were constant complaints by the Company of the increasing boldness of the whalers. Tikhmenieff. See Appendix, vol. i, No. 5.

In 1846 the Governor-General of Eastern Siberia asked that foreign whalers should not be allowed to come within 40 Italian miles of the Russian shores.

Tikhmenieff thus describes the result of these representations:

> The exact words of the letter from the Foreign Office are as follows: "The fixing of a line at sea within which foreign vessels should be prohibited from whaling off our shores would not be in accordance with the spirit of the Convention of 1824, and would be contrary to the provisions of our Convention of 1825 with Great Britain. Moreover the adoption of such a measure, without preliminary negotiation and arrangement with the other Powers, might lead to protests, since no clear and uniform agreement has yet been arrived at among nations in regard to the limit of jurisdiction at sea."

85 In 1847 a representation from Governor Tebenkof in regard to new aggressions on the part of the whalers gave rise to further correspondence. Some time before, in June 1846, the Governor-General of Eastern Siberia had expressed his opinion that, in order to limit the whaling operations of foreigners, it would be fair to forbid them to come within 40 Italian miles of our shores, the ports of Petropaulovsk and Okhotsk to be excluded, and a payment of 100 silver roubles to be demanded at those ports from every vessel for the right of whaling. He recommended that a ship of war should be employed as a cruizer to watch foreign vessels. The Foreign Office expressly stated as follows, in reply:

> "We have no right to exclude foreign ships from that part of the Great Ocean which separates the eastern shore of Siberia from the north-western shore of America, or to make the payment of a sum of money a condition to allowing them to take whales."
>
> The Foreign Office were of opinion that the fixing of the line referred to above would reopen the discussions formerly carried on between England and France on the subject. The limit of a cannon shot, that is about 3 Italian miles, would alone give rise to no dispute. The Foreign Office observed, in conclusion, that no Power had yet succeeded in limiting the freedom of fishing in open seas, and that such pretensions had never been recognised by the other Powers. They were confident that the fitting out of colonial cruizers would put an end to all difficulties; there had not yet been time to test the efficacy of this measure.

Tikhmenieff. See Appendix, vol. i, No. 5. In 1847, traffic in fur-seal skins was carried on by a United States whaler at Behring Island.

In 1848, foreign whaling vessels entered the Arctic Ocean by way of Behring Straits for the first time.

Alaska, p. 584. In 1849, the whaling fleet in the Arctic and northern part of the North Pacific numbered 299 vessels. Two-thirds of these are said to have been United States vessels, but others were French and English, the latter chiefly from Australasia. A Russian Whaling Company for the North Pacific was formed at Abo, in Finland, with special privileges. This Company sent out six vessels in all.

Ibid., p. 572. In 1850, the British vessels "Herald," "Plover," and "Investigator," all despatched in search of Sir John Franklin's expedition, met in Kotzebue Sound, after passing through Behring Strait.

Ibid., p. 584. In the same year an armed Russian corvette was ordered to cruize in the Pacific, and in this year it is esti-

86 mated that 300, and in later years as many as 500 foreign whalers visited the Arctic and neighbouring waters.

Alaska, p. 585. Tebenkof's administration came to an end in this year.

Ibid., p. 572. In 1851, Nulato, a fort on the Yukon some way inland, was surprised by Indians and the inmates butchered,

including Lieutenant Barnard, an English officer of Her Majesty's ship "Enterprise," one of the ships engaged in the expedition in search of Sir John Franklin. The "Enterprise" passed Behring Strait on the 6th May, 1851. The United States whaling fleet is said to have been as numerous as in 1849. "Encyclopædia Britannica," vol. xix, p. 321.

The interval between the close of Tebenkof's administration and the beginning of that of Voievodsky was filled by the temporary appointment of Rosenburg and Rudakof. Alaska, p. 586.

In 1852, buildings at the Hot Springs, near Sitka, were destroyed by the Indians. Ibid., p. 574.

The value of catch of the whaling fleet in the North Pacific in this year is estimated at 14,000,000 dollars. After 1852 the whaling industry gradually decreased. Ibid., p. 669.

In 1853, war impending between England and Russia, the Hudson's Bay and Russian-American Companies influenced their respective Governments to prohibit hostilities on the north-west coast of America. Ibid., p. 570.

In the same year the Russian-American Company again specially requested the Government to prohibit whalers from entering Okhotsk Sea, but without success. Instructions were, however, issued to Russian cruizers to prevent whalers from entering bays or gulfs, or from coming within 3 Italian miles of the shores. Tikhmenieff. See Appendix, vol. i, No. 5.

Tikhmenieff gives the following details:

Some time before the Company had written to the Foreign Office (22nd March, 1853):

> If it is found impracticable entirely to prohibit for a time fishing by foreigners in the Sea of Okhotsk, as an inland sea, would it not, at any rate, be possible officially to prohibit whalers from coming close to our shores and whaling in the bays and among the islands, detaching one of the cruizers of the Kamtchatka flotilla for this service? Ibid.

The instructions to cruizers were approved on the 9th December, 1853. The cruizers were to see that no
87 whalers entered the bays or gulfs, or came within 3 Italian miles of the shores of Russian America (north of 54° 41′), the Peninsula of Kamtchatka, Siberia, the Kadjak Archipelago, the Aleutian Islands, the Pribilof and Commander Islands, and the others in Behring Sea, the Kuriles, Sakhalin, the Shantar Islands, and the others in the Sea of Okhotsk to the north of 46° 30′ north. The cruizers were instructed constantly to keep in view that—

> Our Government not only does not wish to prohibit or put obstacles in the way of whaling by foreigners in the northern part of the Pacific Ocean, but allows foreigners to take whales in the Sea of Okhotsk, which, as stated in these instructions, *is, from its geographical position, a Russian inland sea.* (These words are in italics in the original.)

In 1854, 525 foreign whalers were in Behring Sea and its vicinity. Alaska, p. 584. In the same year Voievodsky was elected Governor for the Company. Ibid., p. 585.

In 1855, the Abo Whaling Company went into liquidation. Ibid., p. 585.

In 1856, 366 foreign whalers were reported as in Behring Sea and vicinity. Ibid., p. 584.

Bancroft reports that in the year 1857—

> Of the 600 or 700 United States whalers that were fitted out in 1857, at least one-half, including most of the larger vessels, were engaged in the North *Pacific, . . . including,* of course, Behring Sea. Ibid., p. 668.

50th Cong., 2nd Sess. Sen. Ex. Doc. No. 106, p. 251, Seward to Clay, February 24, 1868. See Appendix, vol. ii, Part II, No. 12. See p. 114 of Case.

Captain Manuel Enos, of the United States barque "Java," stated in 1867 that he had whaled unmolested in the bays of Okhotsk Sea for seventeen years previously.

Alaska, p. 592.

In 1859, the cession of Alaska to the United States began to be discussed privately.

Ibid., pp. 578, 579.

In 1860, the Russian-American Company applied for a new Charter for twenty years, to date from the 1st January, 1862, and Reports as to the condition of the Company were called for by the Government.

Ibid., p. 580.

The Russian population of the American Colonies at this date, apparently including native wives, numbered 784: Creoles, 1,700; native population estimated at over 7,000.

Alaska, p. 669.

88

In 1862, the value of the catch of the North Pacific whaling fleet was estimated at 800,000 dollars.

Fishery Industries of the United States, sec. v, vol. i, p. 209.

In 1863, the United States brig "Timandra" was engaged in the cod fishery off Saghalien Island, Okhotsk Sea. In succeeding years a number of vessels resorted to this sea for the cod fishery.

Alaska, p. 579.

In 1864, Maksutof took temporary charge for the Russian Government of the Company's affairs.

Ibid.

In 1865, negotiations between the Russian Company and the Government continued, but terms such as the Company would accept could not be arrived at.

Fishery Industries of the United States, sec. v, vol. i, p. 210.

In the spring of this year, the "North Pacific cod-fish fleet" was organized. It comprised seven vessels, all of which are believed to have fished in Okhotsk Sea.

Alaska, p. 580.

In 1866, the Russian Government still contemplated renewing the Company's Charter on certain terms. A Californian Company entered into treaty for a lease of the "coast strip" of Alaska, then held by the Hudson's Bay Company.

Fishery Industries of the United States, sec. v, vol. i, p. 210.

Eighteen vessels were engaged in the Okhotsk Sea cod fishery. The "Porpoise" initiated the fishery in the Shumagan Group, Alaska, finding there "safe harbours, fuel, water, and other facilities for prosecuting this business." Several British Columbian schooners also fished in Alaskan waters.

In 1867, Alaska was sold by Russia to the United States for 7,200,000 dollars.

Ibid., p. 210.

Nineteen United States vessels fished for cod in Okhotsk Sea or in Alaskan waters, the Shumagan fleet consisting of three vessels. The total catch amounted to nearly 1,000,000 fish.

"Philadelphia North American Gazette," Friday, April 12, 1867. Ex. Doc. No. 177, 2nd Sess., 40th Cong., p. 39.

In 1867, before the cession of Alaska, the whaling interest of the United States in these seas are thus referred to by a Philadelphia paper:

Our whaling interests are now heaviest in the seas adjacent to Russian-America, both above and below Behring Strait.

Alaska, p. 669.

The value of the catch of the North Pacific whaling fleet was estimated at 3,200,000 dollars.

Ibid., p. 593

In 1868, the lease of the "coast strip" of Alaska to the Hudson's Bay Company by the Russian-American Company expired.

89 STATISTICS OF UNITED STATES WHALING INDUSTRY.

NORTH PACIFIC GROUNDS, INCLUDING OKHOTSK AND BEHRING SEAS AND ARCTIC OCEAN.)

The growth and decline of the whaling industry during the years discussed in this chapter may be conveniently illustrated by the following table, which shows the number of United States vessels in the North Pacific whaling fleet from 1841 to 1867. It is taken from "The Fishery Industries of the United States," 1887, section 5, vol. ii, pp. 84–85.

"Fishery Industries of the United States," sec. 5, vol. ii, pp. 84–85.

(This list does not include whalers of other nationalities.)

Year.	Number of vessels.	Year.	Number of vessels.
1841	20	1855	217
1842	29	1856	178
1843	108	1857	143
1844	170	1858	196
1845	263	1859	176
1846	292	1860	121
1847	177	1861	76
1848	159	1862	32
1849	155	1863	42
1850	144	1864	68
1851	138	1865	59
1852	278	1866	95
1853	238	1867	90
1854	232		

WALRUS HUNTING.

The whaling vessels frequenting Behring Sea and the Arctic Ocean, from the first, engaged to a certain extent in walrus hunting, and about 1860 such hunting began to be an important secondary object with the whalers. In subsequent years many thousand barrels of walrus oil and great quantities of skins and ivory were secured. Ibid., p. 314.

90 The facts stated in this chapter establish—

That from the year 1821 to the year 1867 the rights of navigation and fishing in the waters of Behring Sea were freely exercised by the vessels of the United States, Great Britain, and other foreign nations, and were recognized as existing by Russia;

That the waters of Behring Sea were treated by Russia as being subject to the provisions of the Treaties of 1824 and 1825.

91 **CHAPTER V.**

The Cession of 1867 and what passed by it.

The fourth question or point in Article VI of the Treaty is as follows:

Did not all the rights of Russia as to the jurisdiction and as to the seal fisheries in Behring Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

This question may conveniently be treated under the following heads, as proposed on p. 10:

(E). What rights passed to the United States under the Treaty of the 30th March, 1867.

(F). The Action of the United States and Russia from 1867 to 1886.

(G). The contentions of the United States since the year 1886.

HEAD (E).—*What rights passed to the United States under the Treaty of March 30, 1867?*

TEXT OF TREATY OF CESSION, 1867.

The following is the text of the Treaty of Cession of Alaska as signed:

United States Statutes at Large, pp. 539–543. For English version, see Appendix, vol. ii, Part III, No. 8.

Sa Majesté l'Empereur de Toutes les Russies et les États-Unis d'Amérique, désirant raffermir, s'il est possible, la bonne intelligence qui existe entre eux, ont nommeé, à cet effet, pour leurs plénipotentiaires, savoir:

Sa Majesté l'Empereur de Toutes les Russies, le Conseiller Privé Édouard de Stoeckl, son Envoyé Extraordinaire et Ministre Plénipotentiaire aux États-Unis; et

Le Président des États-Unis, le Sieur William H. Seward, Secrétaire d'État;

Lesquels, après avoir éxchagé leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté et signé les articles suivants:

92 ARTICLE I.

Sa Majesté l'Empereur de Toutes les Russies s'engage, par cette Convention, à céder aux États-Unis, immédiatement après l'éxchange des ratifications, tout le territoire avec droit de souveraineté actuellement possédé par Sa Majesté sur le Continent d'Amérique ainsi que les îles contigües, le dit territoire étant compris dans les limites géographiques ci-dessous indiquées, savoir: la limite orientale est la ligne de démarcation entre les possessions Russes et Britanniques dans l'Amérique du Nord, ainsi qu'elle est établie par la Convention conclue entre la Russie et la Grande-Bretagne, le 16 (28) Février, 1825, et définie dans les termes suivants des Articles III et IV de la dite Convention:

"A partir du point le plus méridional de l'Ile dite Prince of Wales, lequel point se trouve sous le parallèle du 54° 40′ de latitude nord, et entre le 131me et le 133me degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite Portland Channel, jusqu'au point de la terre ferme, où elle atteint le 56me degré de latitude nord; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte jusqu'au point d'intersection du 141me degré de longitude ouest (même méridien); et

finalement, du dit point d'intersection la même ligne méridienne du 141me degré formera dans son prolongement jusqu'à la Mer Glaciale la limite entre les possessions Russes et Britanniques sur le Continent de l'Amérique Nord-Ouest.

"Il est entendu, par rapport à la ligne de démarcation déterminée dans l'Article précédent:

"1°. Que l'île dite Prince of Wales appartiendra toute entière à la Russie: (mais dès ce jour en vertu de cette cession aux États-Unis).

"2°. Que partout où la crête des montagnes qui s'étendent dans une direction parallèle à la côte, depuis le 56me degré de latitude nord au point d'intersection du 141me degré de longitude ouest se trouverait à la distance de plus de 10 lieues marines de l'océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie (c'est-à-dire la limite des possessions cédées par cette Convention): 'sera formée par une ligne parallèle aux sinuosités de la côte et qui ne pourra jamais en être éloignée que de 10 lieues marines.'"

La limite occidentale des territoires cédés passe par un point au Détroit de Behring sous le parallèle du soixante-cinquième degré trente minutes de latitude Nord à son intersection par le méridien qui sépare à distance égale les Iles Krusenstern ou Ignalook et l'Ile Ratmanoff ou Noonarbook, et remonte en ligne directe, sans limitation, vers le nord, jusqu'à ce qu'elle se perde dans la mer Glaciale. Commençant au même point de départ, cette limite occidentale suit de là un cours presque sud-ouest, à travers le Détroit de Behring et
93 la Mer de Behring, de manière à passer à distance égale entre le point nord-ouest de l'Ile Saint-Laurent et le point sud-est du cap Choukotski jusqu'au méridien cent soixante-douzième de longitude ouest; de ce point, à partir de l'intersection de ce méridien, cette limite suit une direction sud-ouest de manière à passer à distance égale entre l'Ile d'Attou et l'île Copper du groupe d'îlots Kormandorski dans l'Océan Pacifique Septentrional, jusqu'au méridien de cent quatre-vingt-treize degrés de longitude ouest, de manière à enclaver, dans le territoire cédé, toutes les Iles Aléoutes situées à l'est de ce méridien.

ARTICLE II

Dans le territoire cédé par l'article précédent à la Souveraineté des États-Unis, sont compris le droit de propriété sur tous les terrains et places publics, terres inoccupées, toutes les constructions publiques, fortifications, casernes, et autres édifices qui ne sont pas propriété privée individuelle. Il est, toutefois, entendu et convenu que les églises, construites par le gouvernement russe sur le territoire cédé, resteront la propriété des membres de l'Église Grecque Orientale résidant dans ce territoire et appartenant à ce culte. Tous les archives, papiers, et documents du gouvernement, ayant trait au susdit territoire, et qui y sont maintenant déposés, seront placés entre les mains de l'agent des États-Unis; mais les États-Unis fourniront toujours, quand il y aura lieu, des copies légalisées de ces documents au gouvernement russe, aux officiers ou sujets russes qui pourront en faire la demande.

ARTICLE III.

Il est réservé aux habitants du territoire cédé le choix de garder leur nationalité et de rentrer en Russie dans l'espace de trois ans; mais s'ils préfèrent rester dans le territoire cédé, ils seront admis, à l'exception toutefois des tribus sauvages, à jouir de tous les droits, avantages, et immunités des citoyens des États-Unis, et ils seront maintenus et protégés dans le plein exercice de leur liberté, droit de propriété, et religion. Les tribus sauvages seront assujetties aux lois et règlements que les États-Unis pourront adopter, de temps en temps, à l'égard des tribus aborigènes de ce pays.

ARTICLE IV.

Sa Majesté l'Empereur de Toutes les Russies nommera, aussitôt que possible, un agent ou aux agents chargés de remmettre, formellement, à l'agent ou des agents nommés par les États-Unis, le territoire, la souveraineté, les propriétés, dépendances, et appartenances ainsi

cédées et de dresser tout autre acte qui sera nécessaire à l'accomplissement de cette transaction. Mais la cession, avec le droit de possession immédiate, doit toutefois être considérée complète et absolue à l'échange des ratifications, sans attendre la remise formelle.

94 ARTICLE V.

Immédiatement après l'échange des ratifications de cette convention, les fortifications et les postes militaires qui se trouveront sur le Territoire cédé seront remis à l'agent des États-Unis, et les troupes Russes qui sont stationnées dans le dit territoire seront retirées dans un terme praticable et qui puisse convenir aux deux parties.

ARTICLE VI.

En considération de la susdite cession, les États-Unis s'engagent à payer à la Trésorerie à Washington dans le terme de dix mois après l'échange des ratifications de cette convention, sept millions deux cent mille dollars en or, au Représentant diplomatique ou tout autre agent de Sa Majesté l'Empereur de toutes les Russies dûment autorisé à recevoir cette somme. La cession du Territoire avec droit de souveraineté faite par cette convention, est déclarée libre et dégagée de toutes reservations, privilèges, franchises, ou possessions par des compagnies Russes ou tout autre, légalement constituées ou autrement, ou par des associations, sauf simplement les propriétaires possédant des biens privés individuels, et la cession ainsi faite transfère tous les droits, franchises, et privilèges appartenant actuellement à la Russie dans le dit Territoire et ses dépendances.

ARTICLE VII.

Lorsque cette Convention aura été dûment ratifiée par Sa Majesté l'Empereur de toutes les Russies d'une part, et par le Président des États-Unis avec l'avis et le consentement du Sénat de l'autre, les ratifications en seront échangées à Washington dans le terme de trois mois, à compter du jour de la signature, ou plus tôt si faire se peut.

En foi de quoi les plénipotentiaires respectifs ont signé cette convention et y ont apposé le sceau de leurs armes.

Fait à Washington, le 18 (30) jour de Mars, de l'an de Notre Seigneur mille huit cent soixante-sept.

[L. S.] ÉDOUARD DE STOECKL.
[L. S.] WILLIAM H. SEWARD.

THE TREATY DISCUSSED.

It may be remarked, in the first place, that though the expression "water boundary" in the question at the head of this chapter may be accepted as an approximate paraphrase of the original expression employed in the Treaty, it is not a correct translation of the words "la limite occidentale des territoires cédés," which are rendered in the official English translation, published by the United States Government, "the western limit within which the territories and dominion conveyed are contained."

United States Statutes at Large, vol. xv, 1869, pp. 539–543.

95 NO SPECIAL DOMINION OVER WATERS.

It will be observed that in none of these Articles is there a reference to any extraordinary or special dominion over the waters of the Behring Sea, nor, indeed, over any other portion of the North Pacific Ocean. Even in the passage last cited the word "dominion" appears to have no equivalent in the original French version. Neither is there a suggestion that any special maritime right existed which could be conveyed. The language of the Convention is, on the

contrary, most carefully confined to *territory* with the right of sovereignty actually possessed by Russia at the date of the cession.

In Article I the limits of a portion of the Behring Sea are defined in order to show the boundaries within which the territory ceded "sur le Continent d'Amérique ainsi que les îles contiguës" is contained.

In Article VI, Russia again makes it emphatic that she is conveying "les droits, franchises, et privilèges appartenant actuellement à la Russie dans le dit Territoire et ses dépendances."

The final clause of Article I distinctly negatives any implication of an attempt to convey any portion of the high seas—for the said western line is drawn, not so as to embrace any part of the high seas, but, as expressed in the apt language of the Treaty—"*de manière à enclaver, dans le dit territoire cédé, toutes les Iles Aléoutes situées à l'est de ce méridien.*"

Had the intention been to convey the waters of the Behring Sea eastward of the western limit, the words "ainsi que les îles contigües" would not have been used, but words would have been chosen to indicate the area of the open sea conveyed, and it would have been unnecessary to specifically mention the islands.

CHARACTER OF THE WESTERN GEOGRAPHICAL LIMIT, AND REASON FOR ITS ADOPTION. ALEUTIAN ISLANDS, ETC.

There was good reason for a line of demarcation of the character specified.

The islands in the Aleutian chain and in Behring Sea were not well defined geographically, and could therefore not be used for the accurate delimitation of territory ceded.

In fact, even the term Aleutian Archipelago was indefinite in its signification, often including islands which were on the Asiatic side of Behring Sea, and far from the Island of Attu, the westernmost island of the Aleutian group intended to be ceded.

96 Greenhow, for instance, writes:

The *Aleutian Archipelago* is considered by the Russians as consisting of *three groups* of islands. Nearest Aliaska are the *Fox Islands*, of which the largest are *Unimak, Unalashka*, and *Umnak;* next to these are the *Andreanowsky Islands*, among which are *Atscha, Tonaga*, and *Kanaga*, with many smaller islands, sometimes called the *Rat Islands;* the most western group is that first called the *Aleutian* or *Aleoutsky Islands*, which are *Attu, Mednoi* (or *Copper Island*), and *Beering's Island* (p. 5).

"Memoir, Historical and Political of the North-west Coast of North America, &c., by Robert Greenhow, Translator and Librarian to the Department of State." Senate, 26th Cong., 1st Sess. [174], 1840.

In the "History of Oregon and California," &c., by the same author, the Commander Islands (Copper and Behring Islands) are again classed among the Aleutian Islands, which are said to be included under two governmental districts by the Russians, the Commander Islands belonging to the western of these districts (p. 38). Greenhow also states that the name "Aleutian Islands" was first applied to Copper and Behring Islands.

Indeed, in many maps of various dates, the title Aleutian Islands is so placed as impliedly to include the Com-

mander Islands, in some it is restricted to a portion of the chain now recognized by that name. Similar diversity in usage, with frequent instances of the inclusion of the Commander Islands as a part of the Aleutian Islands is found in geographical works of various dates.

From this uncertainty in usage in respect to the name of the Aleutian Islands (though these are now commonly considered to end to the westward at Attu Island), it is obvious that, in defining a general boundary between the Russian and United States possessions, it might have given rise to grave subsequent doubts and questions to have stated merely that the whole of the Aleutian Islands belonged to the United States. Neither would this have covered the case presented by the various scattered islands to the north of the Aleutian chain proper, while to have enumerated the various islands, which often appeared and still sometimes appear on different maps under alternative names, would have been perplexing and unsatisfactory, from the very great number of these to be found in and about Behring Sea.

It was thus entirely natural to define conventionally a general division fixed by an imaginary line so drawn as according to the best published maps to avoid touching any known island.

IMPERFECT SURVEY OF BEHRING SEA.

97 The occasion for a western limit of the kind adopted is the more obvious, when it is borne in mind that many of the islands in and about Behring Sea are even at the present day very imperfectly surveyed, and more or less uncertain in position.

Appendix No. 2 of United States Coast Survey. Coast Pilot of Alaska, 1869. Part I, p. 203.

The following is from the "Coast Pilot of Alaska" (United States Coast Survey 1869):

The following list of the geographical positions of places, principally upon the coast of Alaska, has been compiled chiefly from Russian authorities In its preparation the intention was to introduce all determinations of position that appeared to have been made by actual observation, even when the localities are quite close In the Archipelago Alexander most of Vancouver's latitudes have been introduced, although in such waters they are not of great practical value.

It is believed the latitudes are generally within 2 miles of the actual position, and in many cases where several observers had determined them independently, the errors may be less than a mile. The longitudes of harbours regularly visited by vessels of the Russian-American Company appear to be fairly determined, except toward the western termination of the Aleutian chain, where large discrepancies, reaching 30′ of arc, are exhibited by the comparison of results between Russian authorities and the United States Exploring Expedition to the North Pacific in 1855. Positions by different authorities are given in some instances to show these discrepancies. The comparison of latitudes and longitudes at Victoria, Fort Simpson, Sitka, Chilkaht, Kadiak, and Unalaska, between English and Russian and the United States coast survey determinations, exhibit larger errors than might have been expected.

The uncertainties that exist in the geographical position of many islands, headlands, straits, and reefs, the great dissimilarity of outline and extent of recent examinations of some of the Western Aleutians, the want of reliable data concerning the tides, currents, and winds, the almost total want of detailed descriptions of headlands, reefs, bays, straits, &c., and the circumstantial testimony of the

Aleutian fishermen concerning islands visited by them and not laid down upon the charts, point to the great necessity for an exhaustive geographical reconnaissance of the coast, as was done for the coast of the United States between Mexico and British Columbia.

Even the latest United States chart of what are now known as the Aleutian Islands (No. 68, published in 1891) is based chiefly on information obtained by the "North Pacific Surveying Expedition" under Rogers, which was carried out in the schooner "Fenimore Cooper" in 1855.

98 On sheet 1 of this chart (embracing the western part of the Aleutian Islands) such notes as the following are found:

The latest Russian charts place Bouldyr Island 10 miles due south of the position given here, which is from a determination by Sumner's method.

The low islands between Goroloi and Ioulakh, excepting the west point of Unalga, are from Russian authorities, which, however, are widely discrepant.

Similarly, in the corresponding British admiralty chart (No. 1501) published in 1890 we find the remark:

Mostly from old and imperfect British, Russian, and American surveys.

On the chart of Behring Sea, published by the United States in 1891, a small islet is shown north of St. Matthew Island, near the centre of the sea, which does not appear on the special map of St. Matthew Island published in 1875, and which could not be found in 1891.

LIMIT CONTINUED THROUGH ARCTIC OCEAN.

That the line drawn through Behring Sea between Russian and United States possessions was thus intended and regarded merely as a ready and definite mode of indicating which of the numerous islands in a partially explored sea should belong to either Power, is further shown by a consideration of the northern portion of the same line, which is the portion first defined in the Treaty. From the initial point in Behring Strait, which is carefully described, the "limite occidentale" of territories ceded to the United States "remonte en ligne directe, sans limitation, vers le nord, jusqu'à ce qu'elle se perd dans la Mer Glaciale," or in the United States official translation "proceeds due north without limitation into the same Frozen Ocean.

The "geographical limit" in this the northern part of its length runs through an *ocean* which had at no time been surrounded by Russian territory, and which had never been claimed as reserved by Russia in any way; to which, on the contrary, special stipulations for access had been made in connection with the Anglo-Russian Convention of 1825, and which since 1848 or 1849 had been frequented by whalers and walrus-hunters of various nations, while no single fur-seal has ever been found within it. It is therefore very clear that the geographical limit thus pro-

99 jected towards the north could have been intended only to define the ownership of such islands, if any, as might subsequently be discovered in this imperfectly explored ocean; and when, therefore, the Treaty proceeded

to define the course of "*the same western limit*" (*cette limite occidentale*) from the initial point in Behring Strait to the southward and westward across Behring Sea, it is obvious that it continued to possess the same character and value.

DEBATES IN CONGRESS ON THE CESSION OF ALASKA, 1867, 1868.

Neither the debates in Congress—which preceded and resulted in the cession and its ratification by the United States—nor the Treaty by which it was carried into effect, nor the subsequent legislation by the United States, indicate the transfer or acquisition of any exclusive or extraordinary rights in Behring Sea. On the contrary, they show that no such idea was then conceived.

MEMORIAL OF LEGISLATURE OF TERRITORY OF WASHINGTON.

In answer to a Resolution of the House of Representatives of the 19th December, 1867, calling for all correspondence and information in the possession of the Executive in regard to the country proposed to be ceded by the Treaty, the Memorial of the Legislature of Washington Territory (which was made the occasion for the negotiation), together with Mr. Sumner's speech in the Senate, were among other documents transmitted.

This Memorial shows that United States citizens were already engaged in fishing from Cortez Banks to Behring Strait, and that they had never been under any apprehension of interference with such fishing by Russia, but desired to secure coast facilities, especially for the purposes of curing fish and repairing vessels.

The Memorial is as follows:

To his Excellency Andrew Johnson, President of the United States.

United States Senate, Ex. Doc. No. 177, 40th Cong., 2nd Sess., p. 132.

Your memorialists, the Legislative Assembly of Washington Territory, beg leave to show that abundance of codfish, halibut, and salmon, of excellent quality, have been found along the shores of the Russian possessions. Your memorialists respectfully request your excellency to obtain such rights and privileges of the Government of Russia as will enable our fishing-vessels to visit the ports and harbours of its possessions to the end that fuel, water, and provisions may be easily obtained; that our sick and disabled fishermen may obtain sanitary assistance, together with the privilege of curing fish and repairing vessels in need of repairs. Your memorialists further request that the Treasury Department be instructed to forward to the Collector of Customs of this Puget Sound district such fishing licences, abstract-journals, and log-books as will enable our hardy fishermen to obtain the bounties now provided and paid to the fishermen in the Atlantic States. Your memorialists finally pray your excellency to employ such ships as may be spared from the Pacific naval fleet in exploring and surveying the fishing banks known to navigators to exist along the Pacific Coast from the Cortez bank to Behring Straits.

And, as in duty bound, your memorialists will ever pray.

Passed the House of Representatives, January 10, 1866.

EDWARD ELDRIDGE,
Speaker House of Representatives.

Passed the Council, January 13, 1866.

HARVEY K. HINES,
President of the Council.

DEBATES IN CONGRESS.

In the debate which took place in Congress upon the subject of the acquisition of Alaska, the value of the proposed purchase, and the nature of the interests and property proposed to be acquired were fully discussed.

The debate was protracted, and many leading Members spoke at length. To none of them did it occur to suggest the existence of an exclusive jurisdiction over any waters or fisheries distant more than 3 miles from land.

On the contrary, Mr. Sumner, who had charge of the measure in the Senate, after pointing out that seals were to be found on the "rocks and recesses" of the territory to be acquired, which would therefore make the acquisition more valuable, in touching upon the fisheries and marine animals found at sea, admitted that they were free to the world, contending, however, that the possession of the coast would give advantages to the United States fishermen for the outfitting of their vessels and the curing of their catch.

With reference to the whale fishery he remarked:

The Narwhal with his two long tusks of ivory, out of which was made the famous throne of the early Danish kings, belongs to the Frozen Ocean; but he, too, strays into the straits below. As no sea is now *mare clausum*, all these may be pursued by a ship under any flag, except directly on the coast and within its territorial limit. And yet it seems as if the possession of this coast as a commercial base must necessarily give to its people peculiar advantages in this pursuit.

United States Senate, Ex. Doc. No. 177, 40th Cong., 2nd Sess., p. 183. See Appendix, vol. i, No. 6.

Mr. Washburn, of Wisconsin, said:

But, sir, there has never been a day since Vitus Behring sighted that coast until the present when the people of all nations have not been allowed to fish there, and to cure fish so far as they can be cured in a country where they have only from forty-five to sixty pleasant days in the whole year. England, whose relations with Russia are far less friendly than ours, has a treaty with that Government by which British subjects are allowed to fish and cure fish on that coast. Nay, more, she has a treaty giving her subjects forever the free navigation of the rivers of Russian America, and making Sitka a free port to the commerce of Great Britain.

United States Congressional Debates, from "Congressional Globe," December 11, 1867, 40th Cong., 2nd Sess., Part I, p. 138.

In 1868 Mr. Ferriss spoke as follows:

That extensive fishing banks exist in these northern seas is quite certain; but what exclusive title do we get to them? They are said to be far out at sea, and nowhere within 3 marine leagues of the islands or main shore.

United States Congressional Debates, from "Congressional Globe," July 1, 1868, 40th Cong., 2nd Sess., Part IV, p. 3667.

Mr. Peters, in the course of his speech, remarked:

I believe that all the evidence upon the subject proves the proposition of Alaska's worthlessness to be true. Of course, I would not deny that her cod fisheries, if she has them, would be somewhat valuable; but it seems doubtful if fish can find sun enough to be cured on her shores, and if even that is so, my friend from Wisconsin (Mr. Washburn) shows pretty conclusively that in existing treaties we had that right already.

Ibid., p. 3668.

Mr. Williams, in speaking of the value of the fisheries, said:

And now as to the fishes, which may be called, I suppose, the *argumentum piscatorium*. . . . Or is it the larger tenants of the ocean, the more gigantic game, from the whale, and seal, and walrus, down to the halibut and cod, of which it is intended to open the pursuit to the adventurous fishermen of the Atlantic coast, who are there already in a domain that is free to all? My venerable colleague (Mr. Stevens), who discourses as though he were a true brother of the angle himself, finds the foundations *of this great* Republic like those of Venice *and Genoa among the fishermen*. Beautiful as it shows above,

United States Congressional Debates, from Appendix to "Congressional Globe," July 9, 1868, 40th Cong., 2nd Sess., Part V, p. 490. See also Alaska, p. 670.

like the fabled mermaid—"*desinit in piscem mulier formosa superne*," it ends, according to him, as does the Alaska argument itself, in nothing but a fish at last. But the resources of the Atlantic are now, he says, exhausted. The Falkland Islands are now only a resting place in our maritime career, and American liberty can no longer live except
102 by giving to its founders a wider range upon a vaster sea. Think of it, he exclaims—I do not quote his precise language—what a burning shame is it not to us that we have not a spot of earth in all that watery domain, on which to refit a mast or sail, or dry a net or fish?—forgetting, all the while, that we have the range of those seas without the leave of anybody; that the privilege of landing anywhere was just as readily attainable, if wanted, as that of hunting on the territory by the British; and, above all, that according to the official Report of Captain Howard, no fishing bank has been discovered within the Russian latitudes.

It is therefore established—

That Russia's rights "as to jurisdiction and as to the seal fisheries in Behring Sea," referred to in Point 4 of Article VI of the Treaty of 1892, were such only as were hers according to international law, by reason of her right to the possession of the shores of Behring Sea and the islands therein.

That the Treaty of Cession does not purport either expressly or by implication to convey any dominion in the waters of Behring Sea, other than in the territorial waters which would pass according to international law and the practice of nations as appurtenant to any territory conveyed.

That no dominion in the waters of Behring Sea other than in territorial waters thereof did, in fact, pass to the United States by the Treaty of 1867.

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103 CHAPTER VI.

HEAD (F).—*The Action of the United States and Russia from 1867 to 1886.*

When, in consequence of the cession of Alaska as a whole, the Russians relinquished their sovereignty over the Pribiloff (or "Seal") Islands in 1867, sealers at once landed on the breeding resorts of the fur seal on these islands. Those who came from the New England States found themselves confronted by competitors from the Sandwich Islands. They proceeded to slaughter seals upon the breeding grounds in the manner which had usually been practiced by sealers on grounds where no Regulations were in force.

Increased slaughter of seals.

Elliott, Census Report, p. 25. H. R., Ex. Doc. No. 3883, 50th Cong., 2nd Sess., pp. 87. 88. Ibid., p. 70.

In the year 1868, at least 240,000 seals are reported to have been taken, and 87,000 in the following year. In view of this wholesale destruction of seals, the United States Government decided, in the exercise of their undoubted right of territorial sovereignty, to lease these seal rookeries, and to re-establish by means of the necessary legislation, the lapsed Russian Regulations which had restricted the killing of the fur seal.

ACT OF JULY 27, 1868. KILLING OF SEALS PROHIBITED.

Accordingly, on the 27th July, 1868, an Act passed the Congress of the United States, entitled "An act to extend the Laws of the United States relating to Customs and Navigation over the territory ceded to the United States by Russia, to establish a Collection District therein, and for other purposes," of which section 6 provides:

That it shall be unlawful for any person or persons to kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal within the limits of *said territory, or in the waters thereof.* United States Statutes at Large, vol. xv, p. 241.

On the 3rd of March, 1869, a Resolution was passed by the Senate and House of Representatives specially reserving for Government purposes the Islands of St. Paul and St. George, and forbidding any one to land or remain there without permission of the Secretary of the Treasury. Ibid., p. 348.

SECRETARY BOUTWELL'S REPORT.

Mr. Boutwell's Report, as Secretary of the Treasury, preceded an Act of the 1st July, 1870. This Report discloses no suggestion of jurisdiction at a greater distance than 3 miles from the shore-line. With knowledge of the 104 raids upon the islands and the existence of seal-hunting schooners, Mr. Boutwell dwelt upon the means of protecting the seal islands only. He recommended that the Government of the United States should itself undertake the management of the business of the islands, and should "exclude everybody but its own servants and agents . . . and subject vessels that touch there to forfeiture, except when they are driven to seek shelter or for necessary repairs." 41st Cong., 2nd Sess., Ex. Doc. No. 109.

ACT OF JULY, 1870.

On the 1st of July, 1870, an Act was passed entitled, "An Act to prevent the extermination of Fur-bearing Animals in Alaska," from which the following are extracts: See Blue Book, United States, No. 2, 1890, p. 12. See Appendix, vol. iii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be unlawful to kill any fur seal upon the islands of St. Paul and St. George, *or in the waters adjacent thereto,* except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or use other means tending to drive the seals away from said islands. . .

Section 2. And be it further enacted, that it shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal *in the waters adjacent to said islands,* or on the beaches, cliffs, or rocks where they haul up from the sea to remain.

* * * * *

SEAL ISLANDS TO BE LEASED.

Section 4. And be it further enacted, that immediately after the passage of this Act, the Secretary of the Treasury shall lease, for the rental mentioned in section 6 of this Act . . . for a term of twenty years, from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the Islands of St. Paul and St. George, and to send a vessel or vessels to said islands for the skins of such seals.

* * * * *

Section 5. And be it further enacted, that . . . any person who shall kill any fur seal on either of said islands, *or in the waters adjacent thereto* . . . without authority of the lessees thereof . . . shall be deemed guilty of a misdemeanour.

LEASE OF ALASKA COMMERCIAL COMPANY.

See Appendix, vol. i, No. 7.

In the year 1870, a lease was executed on behalf of the United States Government in favour of the Alaska Commercial Company, as provided for in this Act. It covered the Islands of St. George and St. Paul only.

INSTRUCTIONS TO UNITED STATES OFFICIALS.

The following instructions from the Treasury Department show that the administration confined the interference of their officers to those seal-hunters only who attempted landing upon the islands:

105 TREASURY DEPARTMENT,
September 10, 1870.

H. R., 44th Cong., 1st Sess., Ex. Doc. No. 83, p. 30.

The following Executive Order, relating to the importation of arms into the Islands of St. Paul and St. George, within the district of Alaska, is published for the information of officers of the Customs:

EXECUTIVE MANSION,
Washington, D. C., September 9, 1870.

So much of Executive Order of the 4th February, 1870, as prohibits the importation and use of fire-arms and ammunition into and within the Islands of St. Paul and St. George, Alaska, is hereby modified so as to permit the Alaska Commercial Company to take a limited quantity of fire-arms and ammunition to said islands, subject to the direction of the revenue officers there and such regulations as the Secretary of the Treasury may prescribe.

U. S. GRANT, *President.*

The instructions issued by this Department in its Circular of the 8th February, 1870, are accordingly modified so as to adjust them to the above Order.

Revenue officers will, however, see that the privilege granted to the said Company is not abused; that no fire-arms of any kind are ever used by said Company in the killing of seals or other fur-bearing animals, *on or near said islands*, or near the haunts of seals or sea-otters in the district, nor for any purpose whatever, during the months of June, July, August, September, and October of each year, nor after the arrival of seals in the spring or before their departure in the fall, excepting for necessary protection and defence against marauders or public enemies who may unlawfully attempt to land upon the islands. In all other respects, the instructions of the 8th February, 1870, will remain in force.

WM. A. RICHARDSON,
Acting Secretary.

TREASURY DEPARTMENT,
Washington, D. C., September 19, 1870.

H. R., 44th Cong., 1st Sess., Ex. Doc. No. 83, pp. 32–34.

SIR: I inclose herewith a copy of a letter, dated the 17th instant, from N. L. Jeffries, attorney for the Alaska Commercial Company, reciting that a notice recently appeared in the "Alta California" newspaper, published in your city, of the intended sailing of the schooner "Mary Zephyr" for the Islands of St. Paul and St. George.

By the 4th Section of the Act of the 1st July, 1870, entitled "An Act to prevent the Extermination of Fur-bearing Animals in Alaska," it is provided that the Secretary of the Treasury, immediately after the passage of said Act, shall lease to proper and responsible parties, &c., &c., the right to engage in the business of taking fur seals on the Islands of St. Paul and St. George, and to send a vessel or vessels to said islands for the skins of such seals, &c.

This lease has been awarded to the Company above named
106 for the term of twenty years, a copy of which is herewith inclosed; and the request of General Jeffries that an official announcement be made of the award of said lease, and that no vessels except those of the Government and of said Company will be allowed to touch or land at either of said islands, may be complied with, and you will please cause such notice to be published in one or more of the San Francisco newspapers, at the expense of said Company.

I am, &c.,

(Signed) WM. A. RICHARDSON,
Acting Secretary.

T. G. PHELPS, ESQ.,
Collector of Customs, San Francisco, California

CUSTOM-HOUSE, SAN FRANCISCO, CALIFORNIA,
Collector's Office, September 30, 1870.

SIR: I have the honour to acknowledge the receipt of your letter of the 19th instant, relative to the published notice of the sailing of the schooner "Mary Zephyr" for the Islands of St. Paul and St. George, in Alaska. On seeing the advertisement in the "Alta," written notice was immediately sent to the parties interested, that no vessel would be permitted to land at said islands. I have caused a notice, as suggested by the honourable Secretary, to be published. Please find a copy of the notice inclosed.

I am, &c.,

(Signed) T. G. PHELPS,
Collector.

Honourable GEO. S. BOUTWELL,
Secretary Treasury.

Notice.

In compliance with an order of the honourable Secretary of the Treasury, notice is hereby given that a lease of the Islands of St. Paul and St. George, in the Territory of Alaska, has been executed by the Secretary of the Treasury to the Alaska Commercial Company for the period of twenty years from the 1st day of May, 1870, in accordance with the provisions of an Act of Congress entitled "An Act to prevent the Extermination of Fur-bearing Animals in Alaska," approved the 1st July, 1870, and that, by the terms of said lease and the above-mentioned Act, the said Company have the exclusive right to engage in the business of taking fur seals on said islands and the islands adjacent thereto. No vessels, other than those belonging to said Alaska Commercial Company or to the United States, will be permitted to touch or land at either of said islands or the islands adjacent thereto, nor will any person be allowed thereon except the authorized agents of the United States and of said Company.

(Signed) T. G. PHELPS,
Collector of Customs.

CUSTOM-HOUSE, SAN FRANCISCO, CALIFORNIA,
Collector's Office, September 28, 1870.

107 When the above-mentioned legislation was enacted, Mr. Boutwell, as already stated, was Secretary of the United States Treasury.

OPINION OF UNITED STATES GOVERNMENT IN 1872 AS TO JURISDICTION.

The following correspondence between Mr. T. G. Phelps and Mr. Boutwell shows the position assumed in 1872 by the Treasury Department in relation to the extent of jurisdiction of the United States in Alaskan waters: 50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, pp. 139, 140.

Mr. Phelps to Mr. Boutwell.

CUSTOMS-HOUSE, SAN FRANCISCO,
Collector's Office, March 25, 1872.

SIR: I deem it proper to call the attention of the Department to certain rumours which appear to be well authenticated, the substance of which appears in the printed slip taken from the Daily Chronicle of this date, herewith inclosed.

In addition to the several schemes mentioned in this paper, information has come to this office of another which is being organized at the Hawaiian Islands for the same purpose. It is well known that, during the month of May and the early part of June in each year, the fur seal, in their migration from the southward to St. Paul and St. George Islands, uniformly move through Oonimak Pass in large numbers, and also through the narrow straits near that pass which separate several small islands from the Aleutian Group.

The object of these several expeditions is unquestionably to intercept the fur seals at these narrow passages during the period above mentioned, and there, by means of small boats manned by skilful Indians or Aleutian hunters, make indiscriminate slaughter of those animals in the water, after the manner of hunting sea-otters.

The evil to be apprehended from such proceedings is not so much in respect of the loss resulting from the destruction of the seals at those places (although the killing of each female is in effect the destruction of two seals), but the danger lies in diverting these animals from their accustomed course to the Islands of St. Paul and St. George, their only haunts in the United States.

It is believed by those who have made the peculiar nature and habits of these animals a study, that if they are by any means seriously diverted from the line upon which they have been accustomed to move northward in their passage to these islands, there is great danger of their seeking other haunts, and should this occur the natural selection would be Komandorsky Islands, which lie just opposite the Pribilov Group, near the coast of Kamschatka, owned by Russia, and are now the haunt of fur seals.

That the successful prosecution of the above-mentioned schemes would have the effect to drive the seals from their accustomed course there can be no doubt. Considering, therefore, alone the danger which is here threatened to the interest of the Government in
108 the seal fisheries, and the large annual revenue derived from the same, I have the honour to suggest, for the consideration of the Honourable Secretary of the Treasury, the question whether the Act of July 1, 1870, relating to those fisheries, does not authorize his interference by means of revenue cutters to prevent foreigners and others from doing such an irreparable mischief to this valuable interest. Should the Honourable Secretary deem it expedient to send a cutter into these waters, I would respectfully suggest that a steam-cutter would be able to render the most efficient service, and that it should be in the region of Oonimak Pass and St. Paul and St. George Islands by the 15th of May next.

I am, &c.,

(Signed) T. G. PHELPS, *Collector.*

[*From San Francisco "Daily Chronicle," March 21, 1872.*]

It is stated in reliable commercial circles that parties in Australia are preparing to fit out an expedition for the capture of fur seals in Behring Sea. The present high prices of fur-seal furs in London and the European markets has acted powerfully in stimulating enterprises of a like character. But a few days ago we mentioned that a Victorian Company was organized for catching fur seals in the North Pacific. Another party—an agent representing some Eastern capitalists—has been in this city for the past week making inquiries as to the feasibility of organizing an expedition for like purposes.

Mr. Boutwell to Mr. Phelps.

TREASURY DEPARTMENT,
Washington, D. C., April 19, 1872.

SIR: Your letter of the 25th ultimo was duly received, calling the attention of the Department to certain rumours circulating in San Francisco, to the effect that expeditions are to start from Australia and the Hawaiian Islands to take fur seals on their annual migration to the Islands of St. Paul and St. George through the narrow Pass of Oonimak. You recommend—to cut off the possibility of evil resulting to the interests of the United States from these expeditions—that a revenue cutter be sent to the region of Oonimak Pass by the 15th May next.

A very full conversation was had with Captain Bryant upon this subject while he was at the Department, and he conceived it to be entirely impracticable to make such an expedition a paying one, inasmuch as the seals go singly or in pairs, and not in droves, and cover a large region of water in their homeward travel to these islands, and he did not seem to fear that the seals would be driven from their accustomed resorts, even were such attempts made.

In addition, I do not see that the United States would have the
109 jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore.*

As at present advised, I do not think it expedient to carry out your suggestions, but I will thank you to communicate to the Department any further facts or information you may be able to gather upon the subject.

I am, &c.

(Signed) GEORGE S. BOUTWELL,
Secretary.

In 1875 Mr. McIntyre, the Assistant Treasury Agent at the Pribiloff Islands, wrote that he had armed the natives with the intention of repelling by force attempts "to kill seals in the rookeries or within a rifle shot of the shore."

44th Cong., 1st Sess., H. R., Ex. Doc. No. 130, p. 124, March 15, 1875.

OPINION OF SECRETARY FISH.

In 1875, a question having arisen as to Russia's authority to grant licences for the use of the seas contiguous to her coasts, Mr. Fish, Secretary of State for the United States of America, gives conclusive evidence as to the interpretation placed upon the Convention of 1824 by the United States, as follows:

There was reason to hope that the practice which formerly prevailed with powerful nations of regarding *seas* and bays, *usually of large extent*, near their coast, *as closed to any foreign commerce or fishery* not specially licensed by them, was, without exception, *a pretension of the past*, and that no nation would claim exemption from the general rule of public law which limits its maritime jurisdiction to a marine league from its coast. We should particularly regret if Russia should insist on any such pretension.

Fish to Boker, Dec. 1, 1875, Wharton, vol. 1, sect. 32, p. 106.

FISHING AND NAVIGATION BY FOREIGNERS.

During the whole period discussed in this chapter, the vessels of various nations were continuously engaged in

* In 1888 (after the occurrence of the seizures of British vessels in 1886 and 1887) Mr. Boutwell, by request, explained, in a letter dated the 18th January, that "neither upon my recollection of facts, as they were understood by me in 1872, nor upon the present reading of the correspondence, do I admit the claim of Great Britain that my letter is an admission of any right adverse to the claims of the United States in the waters known as Behring Sea. My letter had reference solely to the waters of the Pacific Ocean south of the Aleutian Islands."

Ex parte T. H. Cooper, owner of "W. P. Sayward." Brief for the United States, No. 9, October Term, 1890, p. 197.

hunting, fishing, and navigating in the waters of the North Pacific, including Behring Sea.

H. R., Ex. Doc. No. 35, 44th Cong., 1st Sess.

Schooners from British Columbia were fishing for cod as early as 1866, and seals to the number of 20,000 a year were reported as being taken south of St. George and St. Paul Islands in 1870 and 1872.

WHALING INDUSTRY.

Fishery industries of the United States, 1887, sec. 5, vol. ii, p. 85.

110 Whalers continued as before to frequent the waters both east and west of the line described in the treaty of 1867. The extent of their operations appears from the following table, which shows the number of vessels composing the North Pacific whaling fleet after the date of the Alaska Cession.*

Year.	Number of United States vessels.	Remarks.
1867	90	Also 11 foreign vessels.
1868	61	Also 7 foreign vessels.
1869	43	Also 6 foreign vessels.
1870	46	Also 9 foreign vessels.
1871	35	All but 7 of the fleet were lost, including 4 foreign vessels.
1872	27	Also 4 foreign vessels.
1873	30	Also 4 foreign vessels.
1874	23	Also 4 foreign vessels.
1875	16	Also 4 foreign vessels.
1876	18	All but 8 of the fleet lost, also 2 foreign vessels.
1877	19	Three of the fleet were lost; 1 foreign vessel.
1878	17	One of the fleet lost.
1879	21	Three of the fleet lost.
1880	19	

WALRUS HUNTING.

Fishery Industries of the United States, sect. v, vol. ii, part 17, pp. 313 *et seq.*

Walrus hunting is also known to have been continuously practiced by the whalers during these years, and in some years large quantities of walrus ivory and oil were obtained:

The Arctic whaling fleet from 1870 to 1880, inclusive, is estimated to have captured 100,000 walrus, producing 1,996,000 gallons of oil and 398,868 pounds of ivory, of a total value of 1,260,000 dollars.

SEAL HUNTING.

H. R., Ex. Doc. No. 83, p. 125, 44th Cong., 1st Sess.

In 1872 expeditions for sealing in Behring Sea were reported to be fitting out in various places, as appears from Mr. Phelps' letter of the 25th March in that year, already quoted, and in 1875 a schooner was reported as having been seen shooting seals among the seal islands.

Ivan Petroff, Special Commissioner of the United States to the seal islands in the year 1880, says in his Report:

H. R., Ex. Doc. No. 40, 46th Cong., 3rd Sess. vol. xviii, p. 65.

As these seals pass up and down the coast as far as the Straits of Fuca and the mouth of Columbia River, quite a number of them are secured by hunters, who shoot or spear them as they find them asleep at sea. Also, small vessels are fitted out in San Francisco, which regularly cruise in these waters for the purpose alone of shooting sleeping seal.

*All vessels not sailing under the United States flag are specified in this table as "foreign."

111 And he adds:

The fur trade of this country, with the exception of that *confined to the seal islands* and set apart by law, is free to all legitimate enterprise. H. R., Ex. Doc., No. 40, 45th Cong., 3d Sess., vol. xviii, p. 68.

Sealing vessels and their catches were also reported by the United States cutter "Corwin," but none were interfered with when outside of the 3-mile limit. H. R., Ex. Doc. No. 153, 49th Cong., 1st Sess.

In 1881 an Agent of the United States Government stated that during the past twenty years probably 100 vessels had "prowled" about the Pribiloff Islands. H. R., Ex. Doc. No. 3883, 50th Cong., 2nd Sess., p. 58.

COMPLAINTS OF DEPREDATIONS ON ROOKERIES.

The agents of the United States Government sent to the seal islands previously to 1886 continually reported upon the inadequacy of the protection of the islands, and they frequently referred to the depredations upon the rookeries by the crews of vessels sealing in Behring Sea.

LETTER FROM MR. D'ANCONA.

Early in 1881, Collector D. A. d'Ancona, of San Francisco, appears to have requested information from the Treasury Department at Washington in regard to the meaning placed by that Department upon the law regulating the killing of fur-bearing animals in the territory of Alaska, and specially as to the interpretation of the terms "waters thereof" and "waters adjacent thereto," as used in the law, and how far the jurisdiction of the United States was to be understood as extending.

REPLY OF MR. FRENCH.

In reply, Acting Secretary H. F. French, of the Treasury Department, wrote as follows on the 12th March, 1881:

SIR: Your letter of the 19th ultimo, requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received. The law prohibits the killing of any fur-bearing animals, except as otherwise therein provided, within the limits of Alaska Territory or in the waters thereof, and also prohibits the killing of any fur-seals on the Islands of St. Paul and St. George or in the waters adjacent thereto, except during certain months. H. R., Ex. Doc., 50th Cong., 2nd Sess., No. 3883, p. 281.

You inquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto," as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your inquiry to relate more especially to the waters of Western Alaska, you are informed that the Treaty with Russia of the 30th March, 1870 [*sic*], by which the Territory of Alaska was ceded to the United States, defines the boundary of the Territory so ceded. This Treaty is found on pp. 671 to 673 of the volume of Treaties of the Revised Statutes. It will be seen therefrom that the
112 limit of the cession extends from a line starting from the Arctic Ocean and running through Bering Strait to the north of St. Lawrence Islands. The line runs thence in a south-westerly direction, so as to pass midway between the Island of Attoo and Copper Island of the Kromanboski [*sic*] couplet or group, in the North Pacific Ocean, to meridian of 193 degrees of west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands, are considered as comprised within the waters of Alaska Territory.

All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

(Signed) H. F. FRENCH,
Acting Secretary.

NO SEIZURES MADE BEFORE 1886.

It does not appear from any official documents that any action was taken at the time in accordance with the opinion expressed in this letter, and no seizures were made, and no warning was given to any British vessel engaged in sealing beyond the ordinary territorial limits prior to 1886, although at least one British vessel is known to have been engaged in such sealing in 1884, and no less than thirteen were so engaged in 1885. Two of these vessels are stated to have been spoken by a United States revenue cutter, without being in any way molested.

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 134.

On the 22nd May, 1884, Lieutenant I. E. Lutz was instructed by the Captain of the United States revenue steamer "Corwin" to watch and to seize or arrest any vessel or persons attempting to take seals contrary to law.

H. R., Mis. Doc., 50th Cong., 1st Sess., No. 602, p. 28.

Acting under these instructions, Lieutenant Lutz arrested the "Adèle," of Hamburg, Gustave Isaacson, master, with three officers and a crew of eighteen Japanese, when at anchor off shore. The Lieutenant was careful to ascertain that the vessel was engaged in sealing ashore, and having waited the return of the ship's boat which came back loaded with seal carcasses, Lieutenant Lutz reported that, *having now secured all necessary evidence*, he notified the captain of the seizure of the vessel.

Ibid., p. 33.

It is found that from 1867 down to and including 1885, vessels continued to visit and hunt in Behring Sea without interference when outside of the ordinary territorial jurisdiction.

The circumstances which appear to have led to a change of official policy in 1886 will be related hereafter.

It may be convenient at this point to refer to questions which were raised by occurrence in the Asiatic waters of the Pacific, adjacent to Russian territory.

113 QUESTIONS ARISING BETWEEN THE UNITED STATES AND RUSSIA IN OKHOTSK AND BEHRING SEAS.

Disputes have more than once arisen respecting the rights of United States whaling vessels in Okhotsk Sea.

WHALERS IN OKHOTSK SEA.

Fishery Industries of the United States, section 5, vol. ii, p. 20. See extract from Tikhmenieff, Appendix, vol. i, No. 5.

The main objection to these whalers was that they interfered with the fur industry, and it is on record that the mode of whaling practiced in this sea was often to anchor the vessel in some harbour and to send the boats therefrom in pursuit of whales. The instructions to Russian cruizers, dating from 1853, only prohibited these vessels from coming "within 3 Italian miles of our shores." The Sea of Okhotsk was covered by the Ukase of 1821, and possesses a seal rookery (Robben Island). Whalers from the *United* States and elsewhere began to frequent this sea *about the* year 1843.

WHALERS SOMETIMES SEAL-HUNTERS.

The following evidence with reference to sealing and whaling in Okhotsk Sea given before the Committee of Ways and Means in the House of Representatives at Washington (3rd May, 1876), shows that whalers were also engaged in taking seals:

H. R., 44th Cong., 1st Sess., Report 623.

Q. Who are Williams, Haven & Co.?—*A.* Williams, Haven, & Co. are Mr. Henry P. Haven, of Connecticut, who died last Sunday, and Richard Chapel. They are whalers. They took seals and whales, and had been at that business in the Pacific for a great many years.

Q. They had an interest in these skins?—*A.* Yes, sir. They had a vessel in the waters of the Okhotsk Sea, I think, seal-fishing in 1866. While their vessel was at Honolulu in 1866, the captain became acquainted with a Russian captain who put in there in distress with the remainder, or a portion, of the Alaska seal-skins taken by the old Russian Company, and there this captain learned of this interest. He left his vessel at Honolulu, went to Connecticut, and conferred with his employers. Then Mr. Chapel, one of the concern, went out to Honolulu and fitted out this vessel and another one and sent them to the Alaska Islands as early as April, 1868.

The United States Minister at St. Petersburg, Mr. Hoffman, writing in 1882, thus refers to this sea:

Mr. Hoffman to Mr. Frelinghuysen, March 14, 1882.

50th Cong., 2nd Sess., Senate Ex. Doc., No. 106, p. 260. See Appendix, vol. ii, Part II, No. 14.

A glance at the map will show that the Kurile Islands are dotted across the entrance to the Sea of Okhotsk the entire distance from Japan on the south to the southernmost Cape of Kamtchatka on the north.

In the time when Russia owned the whole of these islands, her Representatives in Siberia claimed that the Sea of Okhotsk was a *mare clausum*, for that Russian jurisdiction extended from island to island and over 2 marine leagues of intermediate sea from Japan to Kamtchatka.

114

But about five years ago Russia ceded the southern group of these islands to Japan, in return for the half of the Island of Saghalien, which belonged to that Power.

As soon as this was done it became impossible for the Siberian authorities to maintain their claim. My informant was not aware that this claim had ever been seriously made at St. Petersburgh.

And in another letter he says:

March 27, 1882. 50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 261. See Appendix, vol. ii, Part II, No. 15.

I do not think that Russia claims that the Sea of Okhotsk is a *mare clausum*, over which she has exclusive jurisdiction. If she does, her claim is not a tenable one since the cession of part of the group of the Kurile Islands to Japan, if it ever were tenable at any time.

The following appears as an introductory statement in "Papers relating to Behring Sea Fisheries," published at the Government Printing Office in Washington, 1887:

OKHOTSK SEA SUBJECT TO UKASE OF 1821.

This sea [of Okhotsk] is a part of the waters to which the Ukase of 1821 applied, and which M. Poletica, in his subsequent correspondence with Mr. Adams, prior to the Treaty of 1824, said His Imperial Majesty, the Emperor of all the Russias, might have claimed as a close sea had he chosen to do so. As has been seen, all questions as to the right of citizens of the United States, as well as of the subjects of Great Britain, to navigate and fish in those waters, was given up by Russia once for all in the Treaty of 1824 with the United States, and of 1825 with Great Britain.

The following correspondence between Russia and the United States in the years 1867 and 1868 contains an explicit disavowal by Russia of any claim to interfere with the fishing operations of citizens of the United States in the Sea of Okhotsk.

INTERFERENCE WITH UNITED STATES VESSELS.

"Europa." The correspondence referred to shows that the captain of the "Europa," a United States whaling vessel, complained to the Department of State at Washington that the Captain of a Russian armed steamer had stated that he was authorized to drive United States whalers away from the vicinity of the Settlement of Okhotsk, in the Sea of Okhotsk, and "Endeavour." that he had fired on the ship's boat of the bark "Endeavour" of New Bedford.

"Java." It appears also from the same correspondence that on the 27th of July, 1867, the United States bark "Java" was cruizing for whales in Shantar Bay and standing towards Silas Richard's Bluff, when a Russian Commander ordered him out of the bay, and thereupon Mr. Seward inquired of the Russian Government what instructions had been issued relating to fisheries in this sea.

Seward to Clay, February 24, 1868, vol. II, Part II, No. 12. 115

EXPLANATIONS BY RUSSIA.

Westmann to United States Secretary of State, July 31, 1868, 50th Cong., 2nd Sess., Senate Ex. Doc., No. 106, p. 253. In reply to this inquiry, the following explanation was received from M. de Westmann, Acting Minister of Foreign Affairs at St. Petersburg, which shows the claim of jurisdiction of Russia to have been confined to 3 miles only in Russian gulfs and bays, in this part of the very waters covered by the Ukase of 1821:

NO CLAIM OF JURISDICTION BEYOND 3-MILE LIMIT.

These are the circumstances: The schooner "Aleout," under the command of Lieutenant Etoline, had been sent in commission from Nicolaievsk to Oudrk. The abundance of floating ice having forced him to enter into the Gulf of Tougoursh, he there met, the 14th July, at about 20 miles to the south of the Straits of Chautarsk, near the eastern coast, the American whaler "Java," occupied in rendering the oil of a captured whale. Considering that foreign whalers are forbidden by the laws in force to fish in the Russian gulfs and bays at a distance of less than 3 miles from the shore, where the right of fishing is exclusively reserved to Russian subjects, Lieutenant Etoline warned ("invita") the captain of the "Java" to "bear off" from the Gulf of Tougoursh, which he at once did. The same day the "Aleout" made for the Bay of Mawgon, where arrived, on the next day the American whale schooner "Caroline Foot," whose captain, accompanied by the captain of the "Java," called on Lieutenant Etoline, and declared that he had no right to prevent them from fishing for whales wherever they liked. Lieutenant Etoline replied that there were in that respect established rules ("règles"), and if they insisted, absolutely, upon breaking them, that he would be compelled to prevent them. The captain of the schooner "Caroline Foot" pretending ("ayant prétendu") that he had entered into the Bay of Tougoursh in consequence of "deviations from his course," Lieutenant Etoline offered at once all assistance in his power; and, upon request, delivered him 7 pouds of biscuit from the stores of the "Aleout," after which the two ships again went to sea. The 19th of July, that is, four days afterwards, the schooner "Aleout" met a whale, upon which the Commander caused a trial fire to be made. At the same moment was seen, at about 16 miles distance, a sail, name unknown, and, nearer, three "chaloupes," the nearest of which was at least 3 miles in advance in the direction of the cannon fire. In the evening all these ships had disappeared. That incident is registered in the books of the "Aleout" in the following terms: "The 19th of July, at 9 in the evening, at anchor in the Bay of Mawgons, fired a cannon shot for practice at a whale afloat." From these facts General Clay will be convinced that the incident alluded to has been exaggerated, and even perverted ("dénaturé") much in order to be represented as a cause of grievance against the Commander of the "*Aleout*" on the part of the American whalers.

116 The explanation was considered satisfactory. Mr. Seward observing that "the captain of the "Java," spoke unwarrantably when by implication he denied that the Russian authorities have the right to prevent foreign vessels from fishing for whales within 3 marine miles of their own shore."

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 255.

In the year 1881 the Russian Consul at Yokohama issued, on behalf of the Russian Imperial Government, a notice, of which the following is a translation:

Notice.

Russia notice of November, 1881, respecting Okhotsk and Behring Seas. Ibid., p. 259.

At the request of the local authorities of Behring and other islands, the undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

"1. Without a special permit or licence from the Governor-General of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the north-eastern coast of Asia, or within their sea boundary line.

"2. For such permits or licences, foreign vessels should apply to Vladivostock exclusively.

"3. In the port of Petropaulovsk, though being the only port of entry in Kamtchatka, such permits or licences shall not be issued.

"4. No permits or licences whatever shall be issued for hunting, fishing, or trading at or on the Commodore and Robben Islands.

"5. Foreign vessels found trading, fishing, hunting, &c., in Russian waters, without a licence or permit from the Governor-General, and also those possessing a licence or permit who may infringe the existing bye-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the Government. This enactment shall be enforced henceforth, commencing with A. D. 1882.

"6. The enforcement of the above will be intrusted to Russian men-of-war, and also to Russian merchant-vessels, which, for that purpose, will carry military detachments and be provided with proper instructions.

"A. PELIKAN,
"*H. I. R. M. Consul.*

"YOKOHAMA, *November 15, 1881.*"

The firm of Messrs. Lynde and Hough, of San Francisco, was in 1882, and had been for years, engaged in the Pacific coast fisheries. They yearly sent vessels to the Sea of Okhotsk, fishing from 10 to 20 miles from shore. The attention of the firm being called to the above notice, they wrote to the Secretary of State of the United States calling attention thereto.

Ibid., p. 259. Lynde and Hough to Folger, February 15, 1882. See Appendix, vol. ii, Part II, No. 13.

117 The Secretary of State (Mr. Frelinghuysen), on the 7th March, 1882, inclosed their letter, together with the regulations "touching the Pacific coast fisheries," as he termed them, to Mr. Hoffman, the United States Minister at St. Petersburg. Mr. Hoffman acknowledged the receipt of this despatch, in reference to what he also called "our Pacific Ocean fisheries."

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 258. Mr. Hoffman to Mr. Frelinghuysen, March 27, 1882. Ibid., p. 261. See Appendix. Vol. ii, Part II, No. 15.

APPLIED ONLY TO TERRITORIAL WATERS.

Mr. Hoffman, having made inquiry of M. de Giers, the Russian Foreign Minister, the latter, in his reply, dated the 8th (20th) May, 1882, explained that these Regulations applied only to "territorial waters of Russia," and, in a subsequent letter of the 1st (13th) June, quoted Article 560 of the Russian Code, which is as follows:

Ibid., p. 262. M. de Giers to Mr. Hoffman, May 8 (20), 1882. See Appendix, vol. ii, Part II, No. 16.

ARTICLE 560.

Ibid., p. 262. M. de Giers to Mr. Hoffman, June 1 (13), 1882.

The maritime waters, even when they wash the shores, where there is a permanent population, can not be the subject of private possession; they are open to the use of one and all.

See Appendix, vol. ii, Part II, No. 17. Ibid., p. 260. See Appendix, vol. ii, Part II, No. 14.

In a letter to Mr. Frelinghuysen of the 14th March, 1882, Mr. Hoffman shows what he understood to be the meaning applied by M. de Giers to the words "territorial waters." He writes:

> The best whaling grounds are found in *the bays and inlets* of the Sea of Okhotsk. Into these the Russian Government does not permit foreign whalers to enter, *upon the ground that the entrance to them, from headland to headland, is less than 2 marine leagues wide.*

Ibid., pp. 262, 263. See Appendix, vol. ii, Part II, No. 16.

Indeed, M. de Giers, in the letter of the 8th (20th) May, 1882, already quoted, makes it clear that, as to fishing and hunting, the rule was the same, and that the prohibition of vessels engaged in these pursuits extended only over the marine league from the shores of the coasts "and the islands called the 'Commander' and the 'Seals.'"

The island referred to as the "Seals" is Robben Island, and the reference to this and the Commander Islands indicates that M. de Giers, under the term of "hunting," was referring specially to the sealing industry.

CASE OF THE "ELIZA."

On the 21st July, 1884, the United States schooner "Eliza" was seized by the Russian cruizer "Razboïnik" in the Anadir River, which runs into Anadir Bay, a northern portion of Behring Sea. It was represented to the United States that she was there trading and hunting walrus. The United States Vice-Consul-General at Japan termed the seizure "an act of piracy."

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 263.

118

Ibid., p. 270. See Appendix, vol. ii, Part II, No. 19.

General Vlangaly, writing from the Department of Foreign Affairs on the 19th (31st) January, 1887, explained that the "Eliza" was arrested, "not for the fact of seal hunting," but for violating the prohibition touching trading, hunting, and fishing on the Russian coasts of the Pacific without special licence.

Ibid., p. 269.

The crew, it was found, were trading with the natives on the coasts of Kamtchatka, as well as hunting walrus.

Ibid. See Appendix, vol. ii, Part II, No. 19.

This appears to have been accepted as a valid explanation; but with reference to the seizure of this ship and of the "Henrietta," Mr. Lothrop, United States Minister at St. Petersburg, writing to Mr. Bayard, the United States Secretary of State, on the 17th February, 1887, remarks:

> I may add that the Russian Code of Prize Law of 1869, Article 21, and now in force, limits the jurisdictional waters of Russia to 3 miles from the shore.

CASE OF THE "HENRIETTA."

Ibid., p. 267.

The United States schooner "Henrietta" had been seized on the 29th August, 1886, off East Cape in Behring Strait by the Russian corvette "Kreysser."

Ibid., p. 269. See Appendix, Vol. ii, Part II, No. 18.

Explanations from the Russian Government were promptly demanded by the United States, and it was alleged she was arrested for illicit trading on the Russian coasts.

VIEWS OF MR. BAYARD.

Nevertheless, Mr. Bayard, writing to Mr. Lothrop on the 16th March, 1887, observed:

If, as I am to conclude from your despatch, the seizure of the "Henrietta" was made in Russian territorial waters, then the Russian authorities had jurisdiction; and if the condemnation was on proceedings duly instituted and administered before a competent Court and on adequate evidence, this Department has no right to complain. But if either of these conditions does not exist, the condemnation can not be internationally sustained. The first of these conditions, viz, that the proceedings should have been duly instituted and administered, could not be held to exist if it should appear that the Court before whom the proceedings were had was composed of parties interested in the seizure. On general principles of international law, to enforce a condemnation by such a Court is a denial and perversion of justice, for which this Government is entitled to claim redress.

The same right to redress, also, would arise if it should appear that, while the seizure was within the 3-mile zone, the alleged offence was committed exterior to that zone and on the high seas.

119 You are therefore instructed to inquire, not merely as to the mode in which the condemning Court was constituted, but as to the evidence adduced before such Court, in which the exact locality of seizure should be included.

Papers relating to Behring Sea Fisheries, published at the Government Printing Office in Washington, 1887, p. 121.

NO ASSERTION BY UNITED STATES OF EXTRAORDINARY JURISDICTION PREVIOUS TO 1886.

The instructions given from time to time to Commanders of the Revenue Service, or of ships of war of the United States cruizing in Behring Sea, and guarding the interests of the Alaska Commercial Company upon the islands leased to the Company, do not even suggest the intention of that Government to assert a claim so vehemently disputed when advanced by Russia.

On the contrary, while vessels from British Columbia and elsewhere were trading and fishing generally in the Behring Sea, and while vessels—chiefly those of the United States—were actually raiding the rookeries, the instructions relating to the fisheries given to Revenue Marine vessels by the United States Government, until 1886, were confined, as has been shown, to the immediate protection of the seal islands.

REPORT OF CRUIZE OF THE "CORWIN," 1885.

The seizure of British sealers in the open sea followed the report on the cruize of the Revenue Marine steamer "Corwin" in the year 1885.

In this report, it is among other things stated, that while shaping a course for St. Paul a special lookout was kept for vessels sealing.

H. R., Ex. Doc. 153, 49th Cong., 1st Sess.

The Captain writes:

While we were in the vicinity of the seal islands a lookout was kept at masthead for vessels cruizing, sealing, or illicitly trading *among those islands*. But no such vessels were seen.

Having drawn attention to the number of vessels which had taken, or had endeavoured to take seals on the shores of the islands, and illustrated the great difficulty of pre-

venting the landing thereupon, the Commander concludes as follows:

In view of the foregoing facts, I would respectfully suggest—

1. That the Department cause to be printed in the Western papers, particularly those of San Francisco, California, and Victoria, British Columbia, the sections of the law relating to the killing of fur-bearing animals in Alaskan waters, and defining in specific terms what is meant by Alaskan waters.

2. That a revenue cutter be sent to cruize in the vicinity of the Pribilof Islands and Aleutian Group during the sealing season.

Senate Ex. Doc., 50th Cong., 2nd Sess., No. 106, p. 135.

120 On the 6th March, 1886, Mr. Daniel Manning, Secretary to the Treasury, wrote to the Collector of Customs at San Francisco as follows:

TREASURY DEPARTMENT,
March 6, 1886.

See *ante*, p. 111.

Sir: I transmit herewith, for your information, a copy of a letter addressed by the Department on the 12th March, 1881, to D. A. d'Ancona, concerning the jurisdiction of the United States in the waters of the Territory of Alaska, and the prevention of the killing of fur seals and other fur-bearing animals within such areas, as prescribed by chapter 3, title 23, of the Revised Statutes. The attention of your predecessor in office was called to this subject on the 4th April, 1881. This communication is addressed to you, inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur seals in these waters. You are requested to give due publicity to such letters in order that such parties may be informed of the construction placed by this Department upon the provision of law referred to.

Yours, &c.,

(Signed) D. MANNING,
Secretary.

Blue Book, "United States No. 2 (1890)," p. 7. See Appendix, vol. iii.

Public notice appears to have been given accordingly in the terms of the letter addressed by Mr. H. F. French to Mr. d'Ancona. (See *ante*, p. 111.)

The statement of facts in this chapter establishes—

That from the year 1867 down to the year 1886 the action of the United States and Russia, the parties to the Treaty of Cession of 1867, is consistent only with the view that the rights possessed by the United States and by Russia respectively in the waters of Behring Sea were only those ordinarily incident to the possession of the coasts of that sea and the islands situated therein.

That during that period, notwithstanding the presence of seal-hunting craft in Behring Sea, the United States authorities confined the exercise of jurisdiction to the land and waters included within the ordinary territorial limits.

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121 **CHAPTER VII.**

HEAD (G.)—*Various Contentions of the United States since the year 1886.*

The considerable development of pelagic sealing in the North Pacific which had taken place in the years previous to 1886 had established a very strong competition against the Alaska Commercial Company. That Company, paying a considerable royalty to the United States Government

upon every skin, had now to face the competition of the pelagic sealers, who paid no rent or royalty. The Company therefore exerted all its influence, especially powerful at Washington, to check and, if possible, destroy this competition. Till the development of the pelagic sealing industry, the actual circumstances had been such as to allow the Company largely to control the markets for seal-skins, and to enable them to exercise a practical monopoly of sealing in the North Pacific.

INSTRUCTIONS TO REVENUE CUTTERS.

In the year 1886 the United States Government for the first time furnished revenue cutters with instructions to prevent any vessel from sealing in any part of Behring Sea to the eastward of the geographical limit mentioned in the Treaty of Cession.

This action of the United States was the first attempt to actively interfere with the right of the vessels of other nations to navigate and fish in the waters of Behring Sea other than territorial waters.

Reports of Governor of Alaska, 1886, p. 48; 1887, p. 36. Blue Book, "United States No. 2 (1890)," p. 45. See Appendix, vol. iii.

SEIZURE OF THREE BRITISH VESSELS.

In pursuance of the above-mentioned orders, three British vessels were seized during this year while fishing outside ordinary territorial waters, and subsequently condemned upon the ground that the waters in which they were fishing, formed part of the waters of Alaska and were subject to the jurisdiction of the United States.

See Judge Dawson's summing up in case of "Thornton," Blue Book, "United States No. 2 (1890)," p. 30. See Appendix, vol. iii.

PROTEST OF BRITISH GOVERNMENT.

Sir L. S. Sackville West, British Minister at Washington, at once, by instruction, made a formal protest in the name of Her Majesty's Government against these seizures of British vessels.

122 Attorney-General Garland issued the following order, after the British protest:

50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 185.

WASHINGTON, D. C., *January 26, 1887.*

Judge Lafayette Dawson and M. D. Ball, United States District Attorney, Sitka, Alaska.

I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizure of the British vessels "Carolena," "Onward," and "Thornton," and discharge all vessels now held under such seizure, and release all persons that may be under arrest in connection therewith.

(Signed) A. H. GARLAND,
Attorney-General.

Mr. Bayard, however, the Secretary of State, wrote, on the 3rd February, 1887, to Sir L. S. Sackville West that this order was issued "without conclusion of any questions which may be found to be involved in these cases of seizure."

Ibid., p. 40.

RENEWED SEIZURES.

Fresh seizures took place in July and August of 1887, and renewed protest was made by Great Britain.

No seizure occurred in 1888, though British sealing vessels made large catches in that year in Behring Sea.

In 1889 five British ships were seized in Behring Sea, and three others were ordered out of the sea.

In 1890 no seizures were made, though a large number of sealers visited the sea and took seals therein.

"MODUS VIVENDI."

Blue Book, "United States No. 3 (1892)," p. 39. See Appendix, vol. iii.

In 1891 an agreement was come to between the United States and Great Britain, resulting in a *modus vivendi*, for the purpose of temporarily regulating the fishery, pending the result of expert investigation into the necessities of the case. Vessels were forbidden to take seals in Behring Sea for a limited period under penalty of seizure and fine, and on the other hand the number allowed to be killed on the islands was largely reduced. The only seizures that have occurred since the establishment of the *modus vivendi* have been made on the ground of its infraction.*

123 The legality of the seizures made in 1886, 1887, and 1889 became a subject of much discussion and debate in the United States. The uncertainty of the claim of the Government of the United States is exemplified by the fact that United States sealers entered Behring Sea to

* THE following table shows the names of the British sealing vessels seized or warned by the United States revenue cruisers 1886–'90, and the approximate distance from land when seized. The distances assigned in the cases of the "Carolena," "Thornton," and "Onward," are on the authority of U. S. Naval Commander Abbey (see 50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, pp. 20, 40, 30). The distances assigned in the cases of the "Anna Beck," "W. P. Sayward," "Dolphin," and "Grace," are on the authority of Captain Shepard, U. S. R. M. (Blue Book, "United States No. 2 (1890)," pp. 80–82. See Appendix, vol. iii):

Name of vessel.	Date of seizure.	Approximate distance from land when seized.	United States vessel making seizure.
Carolena	Aug. 1, 1886	75 miles	Corwin.
Thornton	" 1, "	70	"
Onward	Aug. 2, 1886	115	"
Favourite	" 2, "	Warned by "Corwin" in about the same position as "Onward."	
Anna Beck	July 2, 1887	66 miles	Rush.
W. P. Sayward	July 9, 1887	59	"
Dolphin	July 12, 1887	40	"
Grace	July 17, 1887	96	"
Alfred Adams	Aug. 10, 1887	62	"
Ada	Aug. 25, 1887	15	Bear.
Triumph	Aug. 4, 1887	Warned by "Rush" not to enter Behring Sea.	
Juanita	July 31, 1889	66 miles	Rush.
Pathfinder	July 29, 1889	50	"
Triumph	July 11, 1889	Ordered out of Behring Sea by "Rush." [?] As to position when warned.	
Black Diamond	" 11, "	35 miles	"
Lily	Aug. 6, 1889	66	"
Ariel	July 30, 1889	Ordered out of Behring Sea by "Rush."	
Kate	Aug. 13, 1889	.....ditto	"
Minnie	July 15, 1889	65 miles	"
Pathfinder	Mar. 27, 1890	Seized in Neah Bay *a*	Corwin.

a Neah Bay is in the State of Washington, and the "Pathfinder" was seized there on charges made against her in Behring Sea in the previous year. She was released two days later.

seal three or four years before the British sealers entered, and they rapidly increased in numbers, but were only occasionally interfered with or seized.

DISCUSSION IN CONGRESS OF RIGHTS OF UNITED STATES.

During the fiftieth Session of the House of Representatives, in 1889, the Committee on Marine and Fisheries was directed "to fully investigate and report upon the nature and extent of the rights and interests of the United States in the fur-seals and other fisheries in the Behring Sea in Alaska, whether and to what extent the same had been violated, and by whom; and what, if any, legislation
124 is necessary for the better protection and preservation of the same."

H. R., 50th Cong., 2nd Sess., Report No. 3883, p. 1. To accompany Bill H. R. 12432.

REPORT OF COMMITTEE OF HOUSE OF REPRESENTATIVES.

The Committee reported, upholding the claim of the United States to jurisdiction over all waters and land included in the geographical limits stated in the Treaty of Cession by Russia to the United States, and construing different Acts of Congress as perfecting the claim of national territorial rights over the open waters of Behring Sea everywhere within the above-mentioned limits.

The Report states:

The territory of Alaska consists of land and water. Exclusive of its lakes, rivers, harbours, and inlets, there is a large area of marine territory which lies outside of the 3-mile limit from the shore, but is within the boundary lines of the territory transferred by Russia to the United States.

H. R., 50th Cong., 2nd Sess., Report No. 3883, p. 10.

* * * * *

The concluding portion of the Report states as follows:

That the chief object of the purchase of Alaska was the acquisition of the valuable products of Behring Sea.

That at the date of the cession of Alaska to the United States, Russia's title to Behring Sea was perfect and undisputed.

That by virtue of the Treaty of Cession, the United States acquired complete title to all that portion of Behring Sea situated within the limits prescribed by the Treaty.

The committee herewith report a bill making necessary amendments of the existing law relating to these subjects, and recommend its passage.

Ibid., p. 23.

The Report describes these amendments as declaring—

The true meaning and intent of section 1956 of the Revised Statutes which prohibit the killing of fur seals, &c., in the waters of Alaska, and requires the President to issue an annual Proclamation, and cause one or more Government vessels to cruize said waters, in order to prohibit the unlawful killing of fur seals therein.

The amendment increases the revenues of the Government from this source by at least 150,000 dollars per annum.

Ibid., p. 24.

The Bill reported contained the following Section:

Section 2. That section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to *all the waters of Behring Sea in Alaska embraced within the true boundary lines mentioned and described in the Treaty with Russia*, dated the 30th March, A.D. 1867, by which the Territory of
125 Alaska was ceded to the United States; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation, and cause the same to be published for one month

Bill H.R., 12432, Blue Book, "United States No. 2 (1890)," p. 245. See Appendix, vol. iii.

in at least one newspaper published at each United States port of entry on the Pacific coast, warning all persons against entering said Territory and waters for the purpose of violating the provisions of said Section; and he shall also cause one or more vessels of the United States to diligently cruize said waters and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein.

CONFERENCE OF THE HOUSES.

Mr. Edwardes to Lord Salisbury, March 23, 1889. Blue Book, "United States No. 2 (1890)," p. 243. See Appendix, vol. iii.

This Bill did not pass the House of Representatives, but the above section was added by the House as an amendment to a Bill for the "Protection of the Salmon Fisheries of Alaska," which originated in the Senate. The Senate, however, refused to accept the House amendment, and the Bill was accordingly referred to a conference of the Houses, and the section, as finally modified and adopted in the Act of the 2nd March, 1889, reads as follows:

Ibid., p. 237.

Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to *all the dominion of the United States in the waters of Behring Sea*, and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation, and cause the same to be published for one month in at least one newspaper (if any such there be) published in each United States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section, and he shall cause one or more vessels of the United States to diligently cruize said waters, and arrest all persons and seize all vessels found to be or to have been engaged in any violation of the laws of the United States therein.

Ibid., p. 234.

On the 21st March, 1889, President Harrison issued his Proclamation accordingly, warning "all persons against entering the waters of Behring Sea within the domain of the United States for the purpose of violating the provisions of said Section 1956 of Revised Statutes."

INTERNATIONAL AGREEMENT PROPOSED.

On the 19th August, 1887, after the seizure of the "W. P. Sayward," and while she was in custody, the United States' Secretary of State wrote identic instructions to the United States Ministers in France, Germany, Great
126 Britain,* Japan, Russian, and Sweden and Norway in the following terms:

Senate Ex. Doc. 50th Con., 2nd Sess., No. 106, p. 84.

Recent occurrences have drawn the attention of this Department to the necessity of taking steps for the better protection of the fur-seal fisheries in Bering Sea. Without raising any question as to the exceptional measures which the particular character of the property in question might justify this Government in taking, and without reference to any exceptional marine jurisdiction that might properly be claimed for that end, it is deemed advisable—and I am instructed by the President so to inform you—to attain the desired ends by international co-operation.

It is well known that the unregulated and indiscriminate killing of seals in many parts of the world has driven them from place to place, and, by breaking up their habitual resorts, has greatly reduced their number.

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* The invitation conveyed by the instructions was not, however, communicated to Great Britain until November 11, 1887. See 50th Cong., 2d Sess., Senate Ex. Doc. No. 106, p. 87; and Blue Book, "United States No. 2 (1890);" Sir J. Pauncefote to Baron Plessen, October 11, 1887. See Appendix, vol. iii.

Under these circumstances, and in view of the *common interests* of *all nations* in preventing the indiscriminate destruction and consequent extermination of an animal which contributes so importantly to the *commercial wealth* and *general use of mankind*, you are hereby instructed to draw the attention of the Government to which you are accredited to the subject, and *invite* it to enter *into such an arrangement* with the Government of the United States as will prevent the citizens of either country from killing seal in Bering Sea at such times and places, and by such methods as at present are pursued, and which threaten the speedy extermination of those animals and consequent serious *loss to mankind*.

The Ministers of the United States to Germany, Sweden and Norway, Russia, Japan, and Great Britain have been each similarly addressed on the subject referred to in this instruction.

So to Mr. White, Secretary of the United States Legation in London, with reference to this proposition, he wrote, on the 1st of May, 1888:

The suggestion made by Lord Salisbury, that it may be necessary to bring other Governments than the United States, Great Britain, and Russia into the arrangements, has already been met by the action of the Department, as I have heretofore informed you. At the same time the invitation was sent to the British Government to negotiate a Convention for seal protection in Bering Sea, a like invitation was extended to various other Powers, which have, without exception, returned a favourable response. Ibid., p. 101.

In order, therefore, that the plan may be carried out, the Convention proposed between the United States, Great Britain, and Russia should contain a clause providing for the subsequent adhesion of other Powers.

And on the 7th February, 1888, the Secretary of State, in a despatch to the Minister at the Court of St. James, after referring to the killing of seals in Behring Sea, wrote:

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The only way of obviating the lamentable result above predicted appears to be by the United States, Great Britain, and other interested Powers taking concerted action to prevent their citizens or subjects from killing fur seals with fire-arms or other destructive weapons, north of 50° of north latitude, and between 160° of longitude west and 170° of longitude east from Greenwich, during the period intervening between April 15 and November 1. 50th Cong., 2nd Sess., Senate Ex. Doc. No. 106, p. 89.

CONTENTIONS OF THE UNITED STATES.

JUDGE DAWSON'S DIRECTIONS TO THE JURY—CASE OF THE "THORNTON."

The Judge of the District Court of Alaska, the Honourable Lafayette Dawson, is reported, in summing up the case to the jury, to have quoted the 1st Article of the Treaty of Cession of the 30th March, 1867, and to have continued as follows: Blue Book, "United States No. 2 (1890)," p. 21. See Appendix, vol. iii.

All the waters within the boundary set forth in this Treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits heretofore described.

CLAIM OF JURISDICTION IN BEHRING SEA EAST OF 193° WEST LONGITUDE.

"If, therefore, the jury believe from the evidence that the defendants did by themselves or in conjunction with others, on or about the time charged in the information, kill any otter, mink, martin, sable

or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska, or in the Behring Sea, east of the 193° of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than 200 dollars nor more than 1,000 dollars, or imprisonment not more than six months, or by both, such fines within the limits herein set forth, and imprisonment."

CASE OF THE "ANNA BECK" AND OTHER VESSELS—BRIEF FOR UNITED STATES GOVERNMENT.

The Counsel appearing for the United States Government, to justify the seizure of the "Anna Beck" and other vessels in 1887, filed a "brief," from which the following extracts are taken:

See Blue Book, "United States No. 2 (1890)," p. 112. See Appendix, vol. iii.

The information in this case is based on section 1956 of chapter 3 of the Revised Statutes of the United States, which provides that—

"No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory or in the waters thereof."

The offense is charged to have been committed 130 miles north of the Island of Ounalaska, and therefore in the main waters of that part of the Behring Sea ceded by Russia to the United States
128 by the Treaty of 1867. The defendants demur to the information on the ground—

1. That the Court has no jurisdiction over the defendants, the alleged offense having been committed beyond the limit of a marine league from the shores of Alaska.

2. That the Act under which the defendants were arrested is unconstitutional in so far as it restricts the free navigation of the Behring Sea for fishing and sealing purposes beyond the limits of a marine league from shore. The issue thus raised by the demurrer presents squarely the questions:

(1.) The jurisdiction of the United States over Behring Sea.

(2.) The power of Congress to legislate concerning those waters.

THE ARGUMENT.

The fate of the second of these propositions depends largely upon that of the first, for if the jurisdiction and dominion of the United States as to these waters be not sustained the restrictive Acts of Congress must fall, and if our jurisdiction shall be sustained small question can be made as to the power of Congress to regulate fishing and sealing within our own waters. The grave question, one important to all the nations of the civilized world, as well as to the United States and Great Britain, is "the dominion of Behring Sea."

After conceding unreservedly the general doctrine of the 3-mile limit, he proceeds:

It thus appears that from our earliest history, contemporaneously with our acceptance of the principle of the marine league belt and supported by the same high authorities is the assertion of the doctrine of our right to dominion over our inland waters under the Treaty of 1867, and on this rule of international law we base our claim to jurisdiction and dominion over the waters of the Behring Sea. While it is, no doubt, true that a nation can not by Treaty acquire dominion in contravention of the law of nations, it is none the less true that, whatever title or dominion our grantor, Russia, possessed under the law of nations at the time of the Treaty of Cession in 1867, passed and now rightfully belongs to the United States. Having determined the law, we are next led to inquire as to whether Behring Sea is an inland water or a part of the open ocean, and what was Russia's jurisdiction over it.

BEHRING SEA SAID TO BE INLAND WATER.

Behring Sea is an inland water. Beginning on the eastern coast of Asia, this body of water, formerly known as the Sea of Kamtchatka, is bounded by the Peninsula of Kamtchatka and Eastern Siberia to

the Behring Strait. From the American side of this strait the waters of the Behring Sea wash the coast of the mainland of Alaska as far south as the Peninsula of Alaska. From the extremity of this
129 peninsula, in a long sweeping curve, the Aleutian Islands stretch in a continuous chain almost to the shores of Kamtchatka, thus encasing the sea.

And he concludes:

Enough has been said to disclose the basis of Russia's right to jurisdiction of the Behring Sea under the law of nations, viz., original possession of the Asiatic coast, followed by discovery and possession of the Aleutian chain and the shores of Alaska north, not only to Behring Strait, but to Point Barrow and the Frozen Ocean, thus inclosing within its territory, as within the embrace of a mighty giant, the islands and waters of Behring Sea, and with this the assertion and exercise of dominion over land and sea.

Such is our understanding of the law, such is the record. Upon them the United States are prepared to abide the Judgments of the Courts and the opinion of the civilized world.

On the 10th September, 1887, the Marquis of Salisbury addressing Sir Lionel West, British Minister at Washington, discussed the proceedings in the United States' District Court in the cases of the "Carolena," "Onward," and "Thornton." After stating that Her Majesty's Government could not find in these proceedings any justification for the condemnation of those vessels, he wrote:

Blue Book, "United States No. 2 (1890)," p. 89. See Appendix, vol. iii.

The libels of information allege that they were seized for killing fur seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States; and the United States Naval Commander Abbey certainly affirmed that the vessels were seized within the waters of Alaska and the Territory of Alaska; but according to his own evidence, they were seized 75, 115, and 70 miles respectively south-south-east of St. George's Island.

Blue Book, "United States No. 2 (1890)," p. 89. See Appendix, vol. iii.

It is not disputed, therefore, that the seizures in question were effected at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law, and it is hardly necessary to add that such limit cannot be enlarged by any municipal law.

The claim thus set up appears to be founded on the exceptional title said to have been conveyed to the United States by Russia at the time of the cession of the Alaska Territory. The pretension which the Russian Government at one time put forward to exclusive jurisdiction over the whole of Behring Sea was, however, never admitted either by this country or by the United States of America.

Upon this ground the discussion between Her
130 Majesty's Government and the Government of the United States was carried on for some years until the receipt of Mr. Blaine's despatch of the 22nd January, 1890, to Sir Julian Pauncefote, the British Minister at Washington, wherein a new or modified position was taken up, and it was asserted to be *contra bonos mores* to engage in the killing of seals at sea.

MR. BLAINE UPON THE SEIZURES.

Mr. Blaine, after promising Sir Julian Pauncefote to put in writing the precise grounds upon which the United States justified the seizures, wrote as follows:

SEALING CONTRA BONOS MORES.

In the opinion of the President, the Canadian vessels arrested and detained in the Behring Sea *were engaged* in a pursuit that is in itself

Mr. Blaine to Sir J. Pauncefote, January 22, 1890. *Blue Book*, "United States No. 2 (1890)," p. 396. See Appendix, vol. iii.

contra bonos mores—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States.

To establish this ground, it is not necessary to argue the question of the extent and nature of the sovereignty of this Government over the waters of the Behring Sea; it is not necessary to explain, certainly not to define, the powers and privileges ceded by His Imperial Majesty the Emperor of Russia in the Treaty, by which the Alaskan Territory was transferred to the United States. The weighty consideration growing out of the acquisition of that territory, with all the rights on land and sea inseparably connected therewith, may be safely left out of view while the grounds are set forth upon which this Government rests its justification for the action complained of by Her Majesty's Government. . . .

He argues that the practice of pelagic sealing insures the extermination of the species, and continues:

Ibid., p. 398.

In the judgment of this Government, the law of the sea is not lawlessness. Nor can the law of the sea and the liberty which it confers and which it protects be perverted to justify acts which are immoral in themselves, which inevitably tend to result against the interest and against the welfare of mankind. One step beyond that which Her Majesty's Government has taken in this contention, and piracy finds its justification.

BEHRING SEA NOT INCLUDED IN PACIFIC OCEAN IN TREATIES OF 1824 AND 1825.

On the 17th December, 1890, Mr. Blaine again wrote to Sir Julian Pauncefote:

Blue Book, "United States No. 1 (1891)," pp. 37, 38. See Appendix, vol. iii.

Legal and diplomatic questions, apparently complicated, are often found, after prolonged discussion, to depend on the settlement of a single point. Such, in the judgment of the President, is the position in which the United States and Great Britain find themselves in the pending controversy touching the true construction of the Russo American and Anglo-Russian Treaties of 1824 and 1825. Great Britain contends that the phrase "Pacific Ocean," as used in the 131 Treaties, was intended to include, and does include, the body of water which is now known as the Behring Sea. The United States contends that the Behring Sea was not mentioned, or even referred to, in either Treaty, and was in no sense included in the phrase "Pacific Ocean." If Great Britain can maintain her position that the Behring Sea at the time of the Treaties with Russia of 1824 and 1825 was included in the Pacific Ocean, the Government of the United States has no well-grounded complaint against her. If, on the other hand, this Government can prove beyond all doubt that the Behring Sea, at the date of the Treaties, was understood by the three Signatory Powers to be a separate body of water, and was not included in the phrase "Pacific Ocean," then the American Case against Great Britain is complete and undeniable. . . .

DISAVOWAL OF MARE CLAUSUM.

Blue Book, "United States No. 1 (1891)," p. 56. See Appendix, vol. iii.

In the same note Mr. Blaine disavows the contention that the Behring Sea is *mare clausum*, but claims that the Ukase, which asserted exclusive jurisdiction over 100 miles from the coast in that Sea, was never annulled by Russia. He had in this note previously argued "that Great Britain and

Ibid., p. 41.

the United States recognized, respected, and obeyed the authority of Russia in the Behring Sea" for more than forty years after the Treaties with Russia. In conclusion, he claims for the United States the right to hold for a specific purpose a "comparatively restricted area of water."

UKASE OF 1821 NEVER ANNULLED IN BEHRING'S SEA.

In this note the Secretary of State thus expresses himself:

The English statesman of that day had, as I have before remarked, attempted the abolition of the Ukase of Alexander only so far as it affected the coast of the Pacific Ocean from the 51st to the 60th degree of north latitude. It was left in full force on the shores of the Behring Sea. There is no proof whatever that the Russian Emperor annulled it there. That sea, from east to west, is 1,300 miles in extent; from north to south it is 1,000 miles in extent. The whole of this great body of water, under the Ukase, was left open to the world, except a strip of 100 miles from the shore. But with these 100 miles enforced on all the coasts of the Behring Sea it would be obviously impossible to approach the Straits of Behring, which were less than 50 miles in extreme width. . . . Ibid., p. 52.

CLAIM TO CONTROL RESTRICTED AREA FOR SPECIFIC PURPOSE.

The United States desires only such control over a limited extent of the waters in the Behring Sea, for a part of each year, as will be sufficient to insure the protection of the fur-seal fisheries, already injured, possibly, to an irreparable extent by the intrusion of Canadian vessels. Ibid., p. 54.

* * * * * *

132 The repeated assertions that the Government of the United States demands that the Behring Sea be pronounced *mare clausum* are without foundation. The Government has never claimed it, and never desired it. It expressly disavows it. Ibid., p. 56.

At the same time the United States does not lack abundant authority, according to the ablest exponents of international law, for holding a small section of the Behring Sea for the protection of the fur seals. Controlling a comparatively restricted area of water for that one specific purpose is by no means the equivalent of declaring the sea, or any part thereof, *mare clausum*.

This disavowal of any claim to Behring Sea as a *mare clausum* is again referred to in Mr. Blaine's despatch of the 14th April, 1891. Blue Book, "United States No. 3 (1892)," p. 2. See Appendix, vol. iii.

On the 21st February, 1891, in answer to the despatch of Mr. Blaine of the 17th December, 1890, Lord Salisbury wrote to Sir Julian Pauncefote:

The effect of the discussion which has been carried on between the two Governments has been materially to narrow the area of controversy. It is now quite clear that the advisers of the President do not claim Behring Sea as a *mare clausum*, and indeed that they repudiate that contention in express terms. Nor do they rely, as a justification for the seizure of British ships in the open sea, upon the contention that the interests of the seal fisheries give to the United States Government any right for that purpose which, according to international law, it would not otherwise possess. Whatever importance they attach to the preservation of the fur-seal species,—and they justly look on it as an object deserving the most serious solicitude,—they do not conceive that it confers upon any Maritime Power rights over the open ocean which that Power could not assert on other grounds. Blue Book, "United States No. 1 (1891)," p. 87. See Appendix, vol. iii.

The claim of the United States to prevent the exercise of the seal fishery by other nations in Behring Sea rests now exclusively upon the interest which by purchase they possess in a Ukase issued by the Emperor Alexander I in the year 1821, which prohibits foreign vessels from approaching within 100 Italian miles of the coasts and islands then belonging to Russia in Behring Sea.

In reply to this, Mr. Blaine wrote on the 14th April, 1891:

In the opinion of the President, Lord Salisbury is wholly and strangely in error in making the following statement: "Nor do they [the advisers of the President] rely as a justification for the seizure of British ships in the open sea upon the contention that the interests of the seal fisheries give to the United States Government any right Blue Book, "United State. No. 3 (1892)," p. 4 See Appendix vol. iii.

for that purpose which, according to international law, it would not otherwise possess." The Government of the United States has steadily held just the reverse of the position Lord Salisbury has imputed to it. It holds that the ownership of the islands upon which the seals breed,

Claim of property interests in seals.

that the habit of the seals in regularly resorting thither and
133 rearing their young thereon, that their going out from the islands in search of food and regularly returning thereto, and all the facts and incidents of their relation to the islands, give to the United States a property interest therein; that this property interest was claimed and exercised by Russia during the whole period of its sovereignty over the land and waters of Alaska; that England recognized this property interest, so far as recognition is implied by abstaining from all interference with it during the whole period of Russia's ownership of Alaska, and during the first nineteen years of the sovereignty of the United States.

It is yet to be determined whether the lawless intrusion of Canadian vessels in 1886 and subsequent years has changed the law and equity of the case theretofore prevailing.

It does not appear, however, that the special rights now apparently claimed by the United States in respect of a special property in fur-seals have ever been otherwise advanced or more definitely formulated than as above mentioned.

CASE OF THE "W. P. SAYWARD."

Stenographic Report of Arguments in Case of the "W. P. Sayward," p. 96.

In 1891, in the course of the Argument before the Supreme Court of the United States in the case of the "W. P. Sayward," one of the learned Judges inquired of Mr. Attorney-General Miller:

See also Brief for United States, *ex parte* T. H. Cooper, owner and claimant of the schooner "W. P. Sayward," p. 166.

Do you mean that the Political Department has decided in terms what constitute the waters of Alaska, or only that the United States has jurisdiction over certain waters for certain purposes?

To which Mr. Miller replied:

CLAIM OF TERRITORIAL JURISDICTION OVER 100 MILES.

That is what I understand they have decided; that they have jurisdiction, and that they have territorial jurisdiction over those waters to the extent of 100 miles.

Judgment United States Supreme Court, *ex parte* T. H. Cooper, owner and claimant of the schooner "W. P. Sayward," p. 16.

Mr. Chief Justice Fuller, delivering the opinion of the Supreme Court of the United States in the case of the "W. P. Sayward," on the 29th February, 1892, referred to the seizures in the following terms:

If we assume that the record shows the locality of the alleged offense and seizure as stated, it also shows that officers of the United States, acting under the orders of their Government, seized this vessel engaged in catching seal and took her into the nearest port; and that the Law Officers of the Government libelled her and proceeded against her for the violation of the laws of the United States, in the District Court, resulting in her condemnation.

How did it happen that the officers received such orders? It must be admitted that they were given in the assertion on the part of
134 this Government of territorial jurisdiction over Behring Sea to an extent exceeding 59 miles from the shores of Alaska;* that this territorial jurisdiction, in the enforcement of the laws protecting seal fisheries, was asserted by actual seizures during the seasons of 1886, 1887, and 1889, of a number of British vessels; that the Government persistently maintains that such jurisdiction belongs to it, based not only on the peculiar nature of the seal fisheries and the property

* The Supreme Court, however, expressed no opinion as to the legal validity of the jurisdiction so asserted.

of the Government in them, but also upon the position that this jurisdiction was asserted by Russia for more than ninety years, and by that Government transferred to the United States; and that negotiations are pending upon the subject.

The facts stated in this chapter show—

That the original ground upon which the vessels seized in 1886 and 1887 were condemned, was that Behring Sea was a *mare clausum*, an inland sea, and as such had been conveyed, in part, by Russia to the United States.

That this ground was subsequently entirely abandoned, but a claim was then made to exclusive jurisdiction over 100 miles from the coast line of the United States' territory.

That subsequently a further claim has been set up to the effect that the United States have property in and a right of protection over fur seals in non-territorial waters.

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135 **CHAPTER VIII.**

POINT 5 OF ARTICLE VI.—*Has the United States any Right, and, if so, what Right of Protection or Property in the Fur Seals frequenting the Islands of the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?*

Right of protection or property in seals outside 3-mile limit.

A NOVEL CLAIM.

The claim involved in this question is not only new in the present discussion, but is entirely without precedent. It is, moreover, in contradiction of the position assumed by the United States in analogous cases on more than one occasion.

The claim appears to be, in this instance, made only in respect of seals, but the principle involved in it might be extended on similar grounds to other animals *feræ naturæ*, such, for instance, as whales, walrus, salmon, and marine animals of many kinds.

Apart from the ordinary limits of territorial jurisdiction over waters adjacent to coasts, or to some exceptional condition based upon agreement, there is absolutely no precedent for the assumption of the right to property in a free-swimming animal, whose movements are uncontrolled and not controllable by man.

Fur seals are indisputably animals *feræ naturæ*, and such animals have been universally regarded by jurists as *res nullius* until they are captured. No person can have property in them until he has actually reduced them into possession by capture.

Why should there be a property in seals in Behring Sea alone? Outside Behring Sea citizens of the United States have pursued the seals for years as Canadians have done, and are doing, without let or hindrance, and with the full knowledge of the United States Government.

The proposition that on one side of the Aleutian Archipelago a seal is the property of the United States, and on

the other it is the property of any man who can catch it, can only be supported on the ground that Behring Sea is the domain of the United States, in other words, a *mare clausum*.

CLAIM INVOLVES MARE CLAUSUM.

It is, moreover, submitted that if seals before capture constitute special property, the larceny of a seal on
136 the high seas by a vessel not belonging to the United States is not cognizable by the United States Courts, and that any claim to protection of seals beyond territorial jurisdiction must involve *mare clausum*.

Whatever arguments may be brought forward in order to induce other nations to concur in the adoption of Regulations limiting and interfering with their rights to fish for and catch seals or other animals *ferœ naturæ* upon the high seas, no nation under the principles of law and the practice among nations can, without the concurrence of all interested Powers, interfere with vessels engaged in this pursuit when outside of the ordinary territorial jurisdiction.

FREEDOM OF SEAL FISHERIES ASSERTED BY UNITED STATES.

The principle suggested in the question discussed in this chapter has been steadily resisted by all nations. The Government of the United States has more than once distinctly asserted the principle that the fur-seal fishery is part of the ocean fishery, and free to all, beyond the 3-mile limit.

FALKLAND ISLANDS—CASE OF THE "HARRIET."

In 1832 the United States schooner "Harriet," Davison, master, was seized by the Government of the Republic of Buenos Ayres at the Falkland Islands; that Government having claimed the right to capture and detain United States vessels engaged in the seal fishery at the Malvinas (Falkland Islands) and the islands and coasts adjacent to Cape Horn.

The United States Chargé d'Affaires wrote, on the 20th June, 1832, to the Buenos Ayres Minister as follows:

British and Foreign State Papers, by Hertslet, vol. xx, p. 335.

. . . The Undersigned is instructed and authorized to say,—that they utterly deny the existence of any right in this Republic to interrupt, molest, detain or capture any vessels belonging to citizens of the United States of America, or any persons being citizens of those States, engaged in taking seals, or whales, or any species of fish or marine animals, in any of the waters, or on any of the shores or lands, of any or either of the Falkland Islands, Tierra del Fuego, Cape Horn, or any of the adjacent islands in the Atlantic Ocean.

On the 10th July, 1832, the United States Chargé d'Affaires wrote to the same Minister as follows:

Ibid., p. 349.

But again—if it be admitted, hypothetically, that the Argentine Republic did succeed to the entire rights of Spain over these regions; and that when she succeeded, Spain was possessed of sovereign rights—the question is certainly worth examination, whether the right to exclude American vessels and American citizens from the fisheries there, is incident to such a succession to sovereignty.

FALKLAND ISLANDS SEAL FISHERIES.

137 The ocean fishery is a natural right, which all nations may enjoy in common. Every interference with it by a foreign Power, is a national wrong. When it is carried on within the marine

league of the coast, which has been designated as the extent of national jurisdiction, reason seems to dictate a restriction, if, under pretext of carrying on the fishery, an evasion of the Revenue Laws of the country may reasonably be apprehended, or any other serious injury to the Sovereign of the coast, he has a right to prohibit it; but, as such prohibition derogates from a natural right, the evil to be apprehended ought to be a real, not an imaginary one. No such evil can be apprehended on a desert and uninhabited coast; therefore, such coasts form no exception to the common right of Fishing in the seas adjoining them. All the reasoning on this subject applies to the large bays of the ocean, the entrance to which cannot be defended; and this is the doctrine of Vattel, chapter 23, section 291, who expressly cites the Straits of Magellan, as an instance for the application of the rule.

. . . The Treaty concluded between Great Britain and Spain, in 1790, already alluded to, is to be viewed, in reference to this subject, because, both nations, by restricting themselves from forming Settlements, evidently intended that the fishery should be left open, both in the waters and on the shores of these islands, and perfectly free, so that no individual claim for damage, for use of the shores, should ever arise. That case, however, could scarcely occur, for whales are invariably taken at sea, and generally without the marine league—and seals, on rocks and sandy beaches, incapable of cultivation. The Stipulation in the Treaty of 1790 is, clearly, founded on the right to use the unsettled shores for the purpose of fishery, and to secure its continuance.

British and Foreign State Papers, by Hertslet, vol. xx, p. 351.

Mr. Robert Greenhow, whose works have already been quoted, in a series of articles on the Falkland Islands, written for "Hunt's Merchants' Magazine," in February, 1842, refers to the claim set up by Buenos Ayres respecting the jurisdiction of the Republic and the application of its laws and regulations, "especially those respecting the seal fishery on the coast."

Mr. Greenhow says:

To proceed another step in admissions. Supposing the Argentine Republic to have really and unquestionably inherited from Spain the sovereignty of the territories adjoining it on the south, and the contiguous islands, that Government would still want the right to extend its "Regulations respecting the seal fishery" to the unsettled portions of the coasts of those territories. That right was indeed assumed by Spain, with many equally unjust, which were enforced so long as other nations did not find it prudent to contest them. But as the Spanish power waned, other nations claimed their imprescriptible rights;
138 they insisted on navigating every part of the open sea, and of its unoccupied straits and harbours, with such limitations only as each might choose to admit by Treaty with another; and they resorted to the North Pacific coasts of America for trade and settlement, and to the southernmost shores of the continent for the seal fishery, without regard for the exclusive pretensions of Spain to the sovereignty of those regions. *Of the hundreds of vessels, nearly all American, which annually frequented the coasts and seas above mentioned after 1789, not one was captured or detained by the Spanish authorities;* and long before the revolutions in Southern America began, the prohibitory Decrees of the Court of Madrid and of its Governors, relative to those parts of the world, had become obsolete, and the warnings of its officers were treated as jests.

Hunt's "Merchants' Magazine," February 1842, p. 137.

The common right of all nations to navigate and fish in the open sea, and in its indefensible straits, and to use their unsettled shores for temporary purposes, is now admitted among the principal Maritime Powers; and the stipulations in Treaties on those subjects, are intended to—prevent disputes as to *what coasts are to be considered as unsettled,—what straits are indefensible,—within what distance from a settled coast the sea ceases to be open, &c.*

The Governments of Spanish American Republics have, however, in many instances exhibited a strong indisposition to conform with these and other such Regulations of national law, though clearly founded on justice and reason, and intended clearly for the benefit of the weak, to which class they all belong.

He also refers to the case of the "Harriet" as follows:

Hunt's "Merchants' Magazine," February, 1842, p. 143.

. . . The President at the same time declared, that the name of the Republic of Buenos Ayres had been used, to cover with a show of authority, acts injurious to the commerce of the United States, and to the property and liberty of their citizens; for which reason, he had given orders for the dispatch of an armed vessel to join the American squadron in the south seas, and aid in affording all lawful protection to the trade of the Union, which might be required; and he should without delay send a Minister to Buenos Ayres, to examine into the nature of the circumstances, and also of the claim set up by that Government to the Falkland Islands.

Ibid., p. 144.

. . . The question had, however, become more complicated before the arrival of Mr. Bayless at Buenos Ayres.

The "Lexington" reached Berkeley Sound on the 28th December, and lay at the entrance, during a severe gale, until the 31st, when she went up and anchored in front of the harbour of Soledad. Boats were immediately sent ashore, with armed seamen and marines, who made prisoners of Brisbane, Metcalf, and some other persons, and sent them on board the ship; the cannon mounted before the place were at the same time spiked, some of the arms and ammunition
139 were destroyed, and the seal skins and other articles taken from the "Harriet" and "Superior" were removed from the warehouses, and placed in the schooner "Dash," which carried them to the United States. Captain Duncan then gave notice to the inhabitants that the seal fishery on those coasts was in future to be free to all Americans; and that the capture of any vessel of the United States would be regarded as an act of piracy; and having affixed a declaration in writing to that effect on the door of the Government-house, he took his departure, on the 22nd January, 1832, carrying with him in the "Lexington," Brisbane and six other persons as prisoners, with many of the negroes and settlers as passengers.

HALIFAX FISHERIES COMMISSION. MR. DANA'S SPEECH.

Mr. R. H. Dana, in his speech on behalf of the United States before the Halifax Fisheries Commission in 1887, says:

Record of the Proceedings of Halifax Fisheries Commission, 1877, p. 1653.

The right to fish in the sea is in its nature not real, as the common law has it, nor immovable, as named by the civil law, but personal. It is a liberty. It is a franchise or a faculty. It is not property pertaining to or connected with the land. It is incorporeal; it is aboriginal. The right of fishing, dropping line or net into the sea, to draw from it the means of sustenance, is as old as the human race, and the limits that have been set about it have been set about it in recent and modern times, and wherever the fisherman is excluded, a reason for excluding him should always be given. I speak of the deep sea fishermen following the free-swimming fish through the sea, not of the crustaceous animals, or of any of those that connect themselves with the soil under the sea or adjacent to the sea, nor do I speak of any fishing which requires possession of the land or any touching or troubling the bottom of the sea; I speak of the deep-sea fishermen who sail over the high seas pursuing the free-swimming fish of the high seas. Against them, it is a question not of admission, but of exclusion. These fish are not property. Nobody owns them. They come we know not whence, and go we know not whither.

* * * * *

They are no man's property; they belong, by right of nature to those who take them, and every man may take them who can.

DR. WOOLSEY'S OPINION.

Dr. Woolsey, in the sixth edition of his Treatise on International Law, says:

Sec. 59, p. 73, sixth edition.

The recent controversy between Great Britain and the United States involving the right of British subjects to catch seals in North Pacific waters appears to be an attempted revival of these old claims to jurisdiction over broad stretches of sea. That an international agreement

establishing a rational close season for the fur seal is wise and necessary no one will dispute, but to prevent foreigners from sealing on the high sea or within the Kamschatkan Sea (which is not even
140 inclosed by American territory, its west and north-west shores being Russian) is as unwarranted as if England should warn fishermen of other nationalities off the Newfoundland banks.

In the absence of any indication as to the grounds upon which the United States base so unprecedented a claim as that of a right to protection of or property in animals *feræ naturæ* upon the high seas, the further consideration of this claim must of necessity be postponed; but it is maintained that, according to the principles of international law, no property can exist in animals *feræ naturæ* when frequenting the high seas.

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141 ## CHAPTER IX.

General Conclusions upon the whole Case.

It now remains to state the principles of law applicable to the whole Case, some authorities bearing thereon, and the conclusions of fact established by the foregoing statement, and to formulate the final propositions both of law and of fact, upon which Great Britain will insist.

BEHRING SEA AN OPEN SEA.

The sea now known as Behring Sea is an open sea forming part of the common highway of all nations, and especially of Great Britain to her possessions in the northern parts of North America. In the absence of Treaty or international arrangement, all the nations of the world have the right to navigate and fish in such waters, and no mere declarations or claims by any one or more nations can take away or restrict the rights of other nations. Moreover, mere non-use or absence of the exercise by any nation of her rights cannot in any way impair or take away the right of that nation or of any other nation to exercise these rights. They are, in fact, the common heritage of all mankind, and incapable of being appropriated by any one or more nations.

The rights and interests of nations in the open sea are correctly stated by Chancellor Kent as follows:

Kent's "Commentaries," vol. i, 9th edition, Boston, 1858, p. 29.

The open sea is not capable of being possessed as private property. The free use of the ocean for navigation and fishing is common to all mankind, and the public jurists generally and explicitly deny that the main ocean can ever be appropriated.

The controversy between Grotius and Selden as to the right of appropriation by a nation of the sea beyond the immediate vicinity of the coast is thus reviewed by Wheaton:

Wheaton, Elements, 8th edition by Dana, 1866, p. 269.

There are only two decisive reasons applicable to the question. The first is physical and material, which would alone be sufficient; but when coupled with the second reason, which is purely moral, will be found conclusive of the whole controversy.

1. Those things which are originally the common property of all mankind can only become the exclusive property of a particular individual or society of *men, by means of* possession. In order to estab-

lish the claim of a particular nation to a right of property in the sea, that nation must obtain and keep possession of it, which is impossible.

142 2. In the second place, the sea is an element which belongs equally to all men, like the air. No nation, then, has the right to appropriate it, even though it might be physically possible to do so.

Cf. Ortolan, "Diplomatie de la Mer," tom. I, pp. 120-126.

It is thus demonstrated that the sea can not become the exclusive property of any nation. And, consequently, the use of the sea for these purposes, remains open and common to all mankind.

NO PRESCRIPTION IN OPEN SEA.

In a note on this passage of Wheaton, Mr. Dana adds that—

The right of one nation, or of several nations, to an exclusive jurisdiction over an open sea, was, as stated in the text, rested solely on a kind of prescription. But, however long acquiesced in, such an appropriation is inadmissible, in the nature of things; and whatever may be the evidence of the time or nature of the use, it is set aside as bad usage which no evidence can make legal.

Sir R. Phillimore writes:

Phillimore, "International Law," 2nd edition, 1871, I, § 174.

The right of navigation, fishing, and the like, upon the open sea, being *jura meræ facultatis*, rights which do not require a continuous exercise to maintain their validity, but which may or may not be exercised according to the free will and pleasure of those entitled to them, can neither be lost by *non-user* or *prescribed* against, nor acquired to the exclusion of others by having been immemorially exercised by one nation only. No presumption can arise that those who have not hitherto exercised such rights, have abandoned the intention of ever doing so.

POSITION TAKEN BY THE UNITED STATES IN 1862: CUBA.

The following position was correctly taken by the United States in 1862, and, it is presumed, will be adhered to by that country to-day.

In that year Spain pushed her claim to an extended jurisdiction around the island of Cuba. Secretary Seward wrote:

Mr. Seward to Mr. Tessara. Wharton Digest of "International Law," vol. i, sec. 32, p. 103.

See Blue Book, "United States, No. 2 (1890)," p. 518.

See Appendix, vol. iii.

It can not be admitted, nor indeed is Mr. Tessara understood to to claim, that the mere assertion of a Sovereign, by an act of legislation, however solemn, can have the effect to establish and fix its external maritime jurisdiction. . . . He can not, by a mere Decree, extend the limit and fix it at 6 miles, because, if he could, he could in the same manner, and upon motives of interest, ambition, and even upon caprice, fix it at 10, or 20, or 50 miles, without the consent or acquiescence of other Powers which have a common right with himself in the freedom of all the oceans. Such a pretension could never be successfully or rightfully maintained.

It is claimed by Great Britain that the facts already stated establish:

Chapter I.

General conclusions.

(A). That fromthe earliest times down to the year

143 1821 the ships of Great Britain and the United States and of other foreign nations navigated the non-territorial waters of Behring Sea and the other parts of the North Pacific, and exercised freely the natural and common rights therein without interference or remonstrance by Russia.

Chapter II.

(B). That when, in the year 1821, Russia, in the terms of the Ukase of that date, advanced claims to exercise control

over a considerable portion of the non-territorial waters of the North Pacific (including a large part of the non-territorial waters of Behring Sea) as over a *mare clausum*, the practice of nations and their admitted rights upon the high seas were already entirely opposed to any claim to such exclusive and exceptional rights as were embodied in or implied by the Ukase.

That this attempt on the part of Russia led to immediate and emphatic protests by Great Britain and the United States, which protests led to the withdrawal of Russia's claims. That those claims were never recognized or conceded by Great Britain in the smallest degree.

That, in view of the continued practice of nations and the growth of the principles of international law since 1821, the arguments then employed by Great Britain and the United States have to-day, if possible, even greater weight than at that period.

(C). That the body of water now commonly known as "Behring Sea" is included in the phrase "Pacific Ocean" as used in the Treaty of 1825 between Great Britain and Russia, and that that Treaty was intended to declare the rights of Great Britain to navigate and fish in all the waters over which Russia had attempted to control and limit such rights, that is to say, from Behring Strait on the north to latitude 51° on the coast of America, and latitude 45° 50′ on the coast of Asia. Chapter III.

(D). That for a period of more than forty years, that is to say, from 1821 to 1867, the subjects and vessels of Great Britain and the United States and other nations continued in increasing numbers to navigate, trade, and fish in the waters of Behring Sea, and that during the whole of that period no attempt was made on the part of Russia to reassert or claim any dominion or jurisdiction over the non-territorial waters of that sea; but that, on the contrary, the right of all nations to navigate, fish, and exercise common rights therein was fully recognized. Chapter IV.

144 (E). That at the time of the acquisition of Alaska by the United States pursuant to the Treaty of the 30th March, 1867, Russia had no rights in respect of Behring Sea other than those which belonged to her as possessing territories washed by its waters, and could not transmit to the United States any rights of exclusive dominion or control over navigation and fishing in non-territorial waters, and the United States of America acquiring as they did all the rights of Russia, acquired no more. Chapter V.

Further, that at the time of the acquisition the United States of America was fully alive to the fact that the non-territorial waters of Behring Sea were open to the ships of all nations for the purpose of the exercise of the common rights of navigation and fishing.

That as to the rights which Russia possessed at the time of the Treaty of 1867, and which were transferred to the United States by virtue of that Treaty, the ordinary rule as to the extent of maritime jurisdiction applied.

AUTHORITIES AS TO THE 3-MILE LIMIT.

Admitting, in the consideration of this question, that Russia's title before 1867 to the coast of Behring Sea and to the islands within those waters was complete, an examination of the principles of international law and the practice of nations will show that her jurisdiction (subject to the question of embayed or inland waters) was confined to the distance of 1 marine league or 3 miles from her shores.

ORTOLAN.

Ortolan, in his "Diplomatie de la Mer," pp. 145, 153 (édition 1864), says:

Proceedings of Halifax Fisheries Commission, 1877, p. 163.

On doit ranger sur la même ligne que les rades et les ports, les golfes et les baies et tous les enfoncements connus sous d'autres dénominations, lorsque ces enfoncements, formés par les terres d'un même État, ne dépassent pas en largeur la double portée du canon, ou lorsque l'entrée peut en être gouvernée par l'artillerie, ou qu'elle est défendue naturellement par des îles, par des bancs, ou par des roches. Dans tous ces cas, en effet, il est vrai de dire que ces golfes ou ces baies sont en la puissance de l'État maître du territoire qui les enserre. Cet État en a la possession: tous les raisonnements que nous avons fait à l'égard des rades et des ports peuvent se répéter ici.

* * * * * *

Ortolan, p. 153.

Les bords et rivages de la mer qui baigne les côtes d'un État sont les limites maritimes *naturelles* de cet État. Mais pour la protection, pour la défense plus efficace de ces limites naturelles, la coutume générale des nations, d'accord avec beaucoup de Traités publics, permet de tracer sur mer, à une distance convenable des côtes, et
145 suivant leurs contours, une ligne imaginaire qui doit être considérée comme la frontière maritime artificielle. Tout bâtiment qui se trouve à terre de cette ligne est dit être *dans les eaux* de l'État dont elle limite le droit de souveraineté et de juridiction.

CASE OF THE "WASHINGTON."—MR. JOSHUA BATES' DECISION.

Under the clauses of the Convention of the 8th February, 1853, the case of the "Washington" (which had been seized in the Bay of Fundy and confiscated in the Vice-Admiralty Court at Yarmouth, N. S.) came before the Joint Commission for settlement of claims in London, and on the disagreement of the Commissioners was decided by the Umpire, Mr. Joshua Bates, in favour of the United States. In his decision he said:

Proceedings of Halifax Fisheries Commission, 1877, p. 152.

The question turns, so far as relates to the Treaty stipulations, on the meaning given to the word "bays" in the Treaty of 1783. By that Treaty, the Americans had no right to dry and cure fish on the shores and *bays* of Newfoundland; but they had that right on the shores, coasts, *bays*, *harbours*, and *creeks* of Nova Scotia; and, as they must land to cure fish on the shores, bays, and creeks, they were evidently admitted to the shores *of the bays, &c.* By the Treaty of 1818 the same right is granted to cure fish on the coasts, bays, &c., of Newfoundland; but the Americans relinquished that right, *and the right to fish within* 3 *miles* of the *coasts, bays, &c., of Nova Scotia.* Taking it for granted that the framers of the treaty intended that the word "bay" or "bays" should have the same meaning in all cases, and no mention being made of headlands, there appears no doubt that the "Washington," in fishing 10 miles from the shore, violated no stipulations of the Treaty.

It was urged, on behalf of the British Government that by "coasts," "bays," &c., is understood an imaginary line drawn along the coast

from headland to headland, and that the jurisdiction of Her Majesty extends 3 marine miles outside of this line; thus closing all the bays on the coast or shore, and that great body of water called the Bay of Fundy, against Americans and others, making the latter a British bay. This doctrine of the headlands is new, and has received a proper limit in the convention between France and Great Britain of the 2nd August, 1839; in which "it is agreed that the distance of 3 miles, fixed as the general limit for the exclusive right of fishery upon the coasts of the two countries, shall, with respect to bays the mouths of which do not exceed 10 miles in width, be measured from a straight line drawn from headland to headland."

The Bay of Fundy is from 65 to 75 miles wide and 130 to 140 miles long; it has several bays on its coast; thus the word "bay," as applied to this great body of water, has the same meaning as that applied to the Bay of Biscay, the Bay of Bengal, over which
146 no nation can have the right to assume sovereignty. One of the headlands of the Bay of Fundy is in the United States, and ships bound to Passamaquoddy must sail through a large space of it. The islands of Grand Menan (British) and Little Menan (American) are situated nearly on a line from headland to headland. These islands, as represented in all geographies, are situated in the Atlantic Ocean. The conclusion is therefore in my mind irresistible that the Bay of Fundy is not a British bay, nor a bay within the meaning of the word as used in the Treaties of 1783 and 1818.

The Agent for the United States before the Halifax Fisheries Commission, 1877, quotes this decision, and adds the following note:

This Convention between France and Great Britain extended the headland doctrine to bays 10 miles wide; thus going beyond the general rule of international law, according to which no bays are treated as within the territorial jurisdiction of a State which are more than 6 miles wide on a straight line measured from one headland to the other.

Proceedings of Halifax Fisheries Commission, 1877, p. 153 (note).

SECRETARY BOUTWELL'S OPINION.

The principle of the marine league was in 1872 applied by Mr. Boutwell, United States Secretary to the Treasury, in his letter of instructions to the Collector of Customs at San Francisco, dated 19th April, 1872, already quoted, as follows:

See *ante*, pp. 108, 109.

I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose [to take fur-seals], unless they made such attempt within a marine league of the shore.

SECRETARY FISH'S OPINION.

The same principle was affirmed in respect of the waters now in question by Mr. Fish, the United States Secretary of State, who wrote to the United States Legation in Russia on the 1st December, 1875:

See *ante*, p. 109.

There was reason to hope that the practice, which formerly prevailed with powerful nations, of regarding seas and bays, usually of large extent near their coast, as closed to any foreign commerce or fishery not specially licensed by them, was, without exception, a pretension of the past, and that no nation would claim exemption from the general rule of public law which limits its maritime jurisdiction to a marine league from its coast. We should particularly regret if Russia should insist on any such pretension.

Wharton's "Digest," sec. 32, p. 106.

The same position was taken up by the United States in their brief filed with the Halifax Fisheries Commission in 1877.

147 The Agent of the United States at Halifax, after setting out the various authorities under this head, concluded as follows:

AUTHORITIES QUOTED BY THE UNITED STATES IN HALIFAX FISHERIES COMMISSION.

Proceedings of Halifax Fisheries Commission, 1877. v. 162.

The jurisdiction of a State or country over its adjoining waters is limited to 3 miles from low-water mark along its sea-coast, and the same rule applies equally to bays and gulfs whose width exceeds 6 miles from headland to headland. Property in and dominion over the sea can only exist as to those portions capable of permanent possession; that is, of a possession from the land, which possession can only be maintained by artillery. At one mile beyond the reach of coast-guns there is no more possession than in mid-ocean. This is the rule laid down by almost all the writers on international law.

As to inland seas and seas over which empire may extend, the following authorities were referred to by the Agent in the same brief:

VATTEL.

Ibid., p. 162.

At present, says Vattel, "Law of Nations," Book 1, ch. xxiii, §§ 289, 291, the whole space of the sea within cannon shot of the coast is considered as making a part of the territory; and, for that reason, a vessel taken under the guns of a neutral fortress is not a good prize.

All we have said of the parts of the sea near the coast may be said more particularly, and with much greater reason, of the roads, bays, and straits, as still more capable of being occupied, and of greater importance to the safety of the country. But I speak of the bays and straits of small extent, and not of those great parts of the sea to which these names are sometimes given—as Hudson's Bay and the Straits of Magellan—over which the Empire cannot extend, and still less a right of property. A bay whose entrance may be defended may be possessed and rendered subject to the laws of the Sovereign; and it is of importance that it should be so, since the country may be much more easily insulted in such a place than on the coast, open to the winds and the impetuosity of the waves.

BLUNTSCHLI.

Ibid., p. 163.

Professor Bluntschli, in his "Law of Nations," Book 4, §§ 302, 309, states the rule in the same way:

When the frontier of a State is formed by the open sea, the part of the sea over which the State can from the shore make its power respected—*i. e.*, a portion of the sea extending as far as a cannon-shot from the coast—is considered as belonging to the territory of that State. Treaties or agreements can establish other and more precise limits.

NOTE.—The extent practised of this sovereignty has remarkably increased since the invention of far-shooting cannon. This is the consequence of the improvements made in the means of defence, of which the State makes use. The sovereignty of States over
148 the sea extended originally only to a stone's-throw from the coast; later, to an arrow-shot; fire-arms were invented, and by rapid progress we have arrived to the far-shooting cannon of the present age. But still we preserve the principle: "*Terræ dominium finitur, ubi finitur armorum vis.*"

Within certain limits, there are submitted to the sovereignty of the bordering State:

(*a*) The portion of the sea placed within a cannon-shot of the shore.
(*b*) Harbours.
(*c*) Gulfs.
(*d*) Roadsteads.

NOTE.—Certain portions of the sea are so nearly joined to the *terra firma*, that, in some measure at least, they ought to form a part of the territory of the bordering State; they are considered as accessories to the *terra firma*. The safety of the State, and the public quiet, are so

dependent on them that they cannot be contented, in certain gulfs, with the portion of the sea lying under the fire of cannon from the coast. These exceptions from the general rule of the liberty of the sea can only be made for weighty reasons, and when the extent of the arm of the sea is not large; thus, Hudson's Bay and the Gulf of Mexico evidently are a part of the open sea. No one disputes the power of England over the arm of the sea lying between the Isle of Wight and the English coast, which could not be admitted for the sea lying between England and Ireland; the English Admiralty has, however, sometimes maintained the theory of "narrow seas;" and has tried, but without success, to keep for its own interest, under the name of "King's Chambers," some considerable extents of the sea.

KLÜBER.

Klüber, "Droit des Gens Modernes de l'Europe (Paris, édition 1831)," tom. i, p. 216:

Proceedings of Halifax Fisheries Commission, 1877, p. 163.

Au territoire maritime d'un État appartiennent les districts maritimes, ou parages susceptibles d'une possession exclusive, sur lesquels l'État a acquis (par occupation ou convention) et continué la souveraineté. Sont de ce nombre, (1) Les parties de l'océan qui avoisinent le territoire continental de l'État, du moins, d'après l'opinion presque généralement adoptée, autant qu'elles se trouvent sous la portée du canon qui serait placé sur le rivage; (2) les parties de l'océan qui s'étendent dans le territoire continental de l'État, si elles peuvent être gouvernées par le canon des deux bords, ou que l'entrée seulement en peut être défendue aux vaisseaux (golfes, baies, et cales); (3) les détroits qui séparent deux continents, et qui également sont sous la portée du canon placé sur le rivage, ou dont l'entrée et la sortie peuvent être défendues (détroit, canal, bosphore, sonde). Sont encore du même nombre; (4) les golfes, détroits, et mers avoisinant le territoire continental d'un État, lesquels, quoiqu'ils ne soient pas entièrement sous la portée du canon, sont néanmoins reconnus par d'autres
149 Puissances comme mer fermée; c'est-à-dire, comme soumis à une domination, et, par conséquent, inaccessibles aux vaisseaux étrangers qui n'ont point obtenu la permission d'y naviguer.

This view, moreover, was emphatically maintained on behalf of the United States on the occasion of the seizures in the year 1887.

The following is the extract from the Brief of the United States on this occasion:

BRIEF FOR THE UNITED STATES, SITKA, IN 1887.

Brief for the United States. Filed at Sitka October 12, 1887. New York Herald, October 18, 1887. Blue Book, "United States No. 2 (1890)," p. 112. See Appendix, vol. iii.

Concerning the doctrine of international law establishing what is known as the marine league belt, which extends the jurisdiction of a nation into adjacent seas for the distance of 1 marine league, or 3 miles from its shores, and following all the indentations and sinuosities of its coast, there is at this day no room for discussion. It must be accepted as the settled law of nations. It is sustained by the highest authorities, law-writers, and jurists. It has been sanctioned by the United States since the foundation of the Government. It was affirmed by Mr. Jefferson, Secretary of State, as early as 1793, and has been reaffirmed by his successors—Mr. Pickering, in 1796; Mr. Madison, in 1807; Mr. Webster, in 1842; Mr. Buchanan, in 1849; Mr. Seward, in 1862, 1863, and 1864; Mr. Fish,* in 1875; Mr. Evarts, in

* This probably refers to Mr. Fish's letter already quoted at p. 109, or to his letter to Sir E. Thornton, dated the 22nd January, 1875, which is as follows:

"The instruction from the Foreign Office to Mr. Watson of the 25th September last, a copy of which was communicated by that gentleman to this Department in his note of the 17th October, directs him to ascertain the views of this Government in regard to the extent of maritime jurisdiction which can properly be claimed by any Power,

1879 and 1881; and Mr. Bayard, in 1886. (Wheaton's [Wharton] "International Law," vol, i, sec. 32, pp. 100 and 109.)

See Lord Lansdowne to Mr. Stanhope, November 27, 1886. Blue Book, "United States No. 2 (1890)," p. 28. Appendix, vol. iii.

Sanctioned thus by an unbroken line of precedents covering the first century of our national existence, the United States would not abandon this doctrine if they could; they could not if they would.

150 EFFECT OF CESSION OF ALASKA ON *MARE CLAUSUM* DOCTRINE.

The Russian claim to extraordinary jurisdiction was expressly founded on a supposed right to hold a portion of the Pacific as *mare clausum*, because that nation claimed the territory on both sides. Even if this claim had been well founded the Treaty of 1867 destroyed it, since the sea was no longer shut in or surrounded by the territory of one nation.

ORTOLAN.

On this subject Ortolan writes:

Ortolan, "Règles Internationales et Diplomatie de la Mer," 4e édition, tom. i, p. 147.

Quant aux mers particulières et intérieures, un droit exclusif de domaine et de souveraineté de la part d'une nation sur une telle mer n'est incontestable qu'autant que cette mer est totalement enclavée dans le territoire de telle sorte qu'elle en fait partie intégrante, et qu'elle ne peut absolument servir de lien de communication et de commerce qu'entre les seuls citoyens de cette nation. Alors, en effet, aucune des causes qui font obstacle soit à la propriété, soit à l'empire des mers, ne trouve ici son application. Mais du moment que plusieurs États différents possèdent des côtes autour de cette mer, aucun d'eux ne peut s'en dire propriétaire ni souverain à l'exclusion des autres.

TWISS.

Sir Travers Twiss writes to the same effect:

"Rights and Duties of Nations in time of Peace," 1884, p. 293.

If a sea is *entirely inclosed* by the territory of a nation, and has no other communication with the ocean than by a channel, of which that nation may take possession, it appears that such a sea is no less capable of being occupied and becoming property than the land, and it ought to follow the fate of the country that surrounds it.

HALLECK.

So Halleck says:

Halleck's International Law, vol. i, cap. 6, pp. 143–145.

21. It is generally admitted that the territory of a State includes the seas, lakes, and rivers entirely inclosed within its limits. Thus, so long as the shores of the Black Sea were exclusively possessed by

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and whether we have ever recognized the claim of Spain to a 6-mile limit, or have ever protested against such claim.

"In reply, I have the honour to inform you that this Government has uniformly, under every Administration which has had occasion to consider the subject, objected to the pretention of Spain adverted to, upon the same ground and in similar terms to those contained in the instruction of the Earl of Derby.

"We have understood and asserted that, pursuant to public law, no nation can rightfully claim jurisdiction at sea beyond a marine league from the coast.

"This opinion on our part has sometimes been said to be inconsistent with the facts that, by the law of the United States, revenue cutters are authorized to board vessels anywhere within 4 leagues of their coasts, and that by the Treaty of Guadalupe-Hidalgo, so called between the United States and Mexico, of the 2nd February, 1848, the boundary-line between the dominions of the parties begins in the Gulf of Mexico, 3 leagues from land."

And he proceeds to explain these two instances as being exceptional. . . . (Wharton, "International Law," vol i, p. 105.)

Turkey, that sea might, with propriety, be considered as a *mare clausum;* and there seemed no reason to question the right of the Ottoman Porte to exclude other nations from navigating the passage which connects it with the Mediterranean, both shores of this passage being also portions of the Turkish territory. But when Turkey lost a part of her possessions bordering upon this sea, and Russia had formed her commercial establishments on the shores of the Euxine, both that Empire and other Maritime Powers became entitled to participate in the commerce of the Black Sea, and consequently to the free navigation of the Dardanelles and the Bosphorus. This right was expressly recognized by the Treaty of Adrianople in 1829.

* * * * *

22. The great inland lakes, and their navigable outlets, are considered as subject to the same rule as inland seas; where inclosed within the limits of a single State, they are regarded as belonging to the territory of that State; but if different nations occupy their borders, the rule of *mare clausum* cannot be applied to the navigation and use of their waters.

151 The view expressed by the above authorities has been officially adopted by an accredited Representative of the United States, so that it is perhaps unnecessary to insist further upon it in this connection.

MR. HOFFMAN.

On the 14th March, 1882, Mr. Hoffman wrote from the Legation of the United States at St. Petersburg to Mr. Frelinghuysen, Secretary of State, in a letter already quoted:

In the time when Russia owned the whole of these islands her Representatives in Siberia claimed that the Sea of Okhotsk was a *mare clausum*, for that Russian jurisdiction extended from island to island and over 2 marine leagues of intermediate sea from Japan to Kamtchatka.

But about five years ago Russia ceded the southern group of these islands to Japan in return for the half of the Island of Saghalien, which belonged to that Power.

As soon as this was done, it became impossible for the Siberian authorities to maintain their claim. My informant was not aware that this claim had ever been seriously made at St. Petersburg.

Mr. Hoffman to Mr. Frelinghuysen, March 14, 1882, 50th Congress, 2nd Sess., Senate Ex. Doc. No. 106, p. 260. See Appendix, vol. ii, Part II, No. 13

And on the 27th March, 1882, he further wrote:

I do not think that Russia claims that the Sea of Okhotsk is a *mare clausum*, over which she has exclusive jurisdiction. If she does, her claim is not a tenable one, since the cession of part of the group of the Kurile Islands to Japan, if it ever were tenable at any time.

Mr. Hoffman to Mr. Frelinghuysen, March 27, 1882. 50th Congress, 2nd Sess., Senate Ex. Doc. No. 106, p. 261, See Appendix, vol. ii, Part II. No. 14.

PROF. ANGELL.

Professor James B. Angell, one of the United States Plenipotentiaries in the negotiation of the Fisheries Treaty at Washington in 1888, and an eminent jurist, in an article entitled "American Rights in Behring Sea," in "The Forum" for November, 1889, wrote:

See Appendix, vol. i, No. 8.

Can we sustain a claim that Behring Sea is a closed sea, and so subject to our control? It is, perhaps, impossible to frame a definition of a closed sea which the publicists of all nations will accept. Vattel's closed sea is one "entirely inclosed by the land of a nation, with only a communication with the ocean by a channel of which that nation may take possession. Hautefeuille substantially adopts this statement, asserting more specifically, however, that the channel must be narrow enough to be defended from the shores. Perels, one of the more eminent of the later German writers, practically accepts Hautefeuille's definition. But so narrow a channel or opening as that indi-

cated by the eminent French writer can hardly be insisted on. Probably, most authorities will regard it as a reasonable requirement that the entrance to the sea should be narrow enough to make the naval occupation of it easy or practicable. We, at least, may be ex-
152 pected to prescribe no definition which would make the Gulf of St. Lawrence a closed sea.

Behring Sea is not inclosed wholly by our territory. From the most western island in our possession to the nearest point on the Asiatic shore is more than 300 miles. From our most western island (Attou) to the nearest Russian island (Copper Island) is 183 miles. The sea from east to west measures about 1,100 miles, and from north to south fully 800 miles. The area of the sea must be at least two-thirds as great as that of the Mediterranean, and more than twice that of the North Sea. The Straits of Gibraltar are less than 9 miles wide. The chief entrance to the Gulf of St. Lawrence, which is entirely surrounded by British territory, is only about 50 miles in width. Behring Sea is open on the north by the straits, 36 miles wide, which form a passage way to the Arctic Ocean. On what grounds and after what modern precedent we could set up a claim to hold this great sea, with its wide approaches, as a *mare clausum*, it is not easy to see.

MR. DANA.

Dana, in a note to Wheaton's "Elements," says:

Wheaton, 8th edition, by Mr. Dana, 1866, section 187 (note).

The only question now is, whether a given sea or sound is, in fact, as a matter of politico-physical geography, within the exclusive jurisdiction of one nation. The claim of several nations, whose borders surround a large open sea, to combine and make it *mare clausum* against the rest of the world, cannot be admitted. The making of such a claim to the Baltic was the infirmity of the position taken up by the Armed Neutrality in 1780 and 1800, and in the Russian Declaration of War against England in 1807.

It is further claimed, on behalf of Great Britain—

Chapter VI. (F.) That from the acquisition of Alaska by the United States in 1867 down to the year 1886 no attempt was made by the United States to limit or interfere with the right of the subjects of Great Britain or of any other nation to navigate and fish in the non-territorial waters of Behring Sea.

Chapter VII. (G.) That the original ground upon which the vessel seized in 1886 and 1887 were condemned rested upon a claim to treat Behring Sea as *mare clausum*, and as having been conveyed as such, in part, by Russia to the United States.

That the contention of the United States has subsequently been rested upon a claim to exclusive jurisdiction over a space of 100 miles from the coast of the United States territory.

That subsequently a further claim has been raised to an alleged special right of protection of or property in the fur seal.

153 GENERAL CONCLUSIONS.

ALLEGED RIGHT OF PROTECTION.

As to Point 5 of Article VI—

Chapter VIII. That, as regards the right claimed by the United States of protection of or property in fur seals when found outside the ordinary 3-mile limit, no property exists, or is known to international law in animals *ferœ naturæ* until reduced into possession by capture, and no nation has any right to claim property in such animals when found outside territorial waters. The only right is to prevent the ships

and subjects of other nations from entering territorial waters for the purpose of capturing such animals.

ANALOGOUS QUESTIONS.

Upon analogous questions similar principles have been generally maintained and recognized.

RIGHT OF SEARCH ON HIGH SEAS.

Thus, with reference to the right to search neutral vessels on the high seas—In 1804, during the war with France, Great Britain claimed to search neutral vessels on the high seas, and to seize her own subjects when found serving under a neutral flag.

The position taken on this subject by the United States was not only in opposition to such a right, but that country insisted that *in no case* did the sovereignty of any nation extend beyond its own dominions and its own vessels on the high seas.

Mr. Madison to Mr. Monroe, January 5, 1804, American State Papers, Foreign Relations, vol. ii. p. 730.

SLAVE TRADE.

A similar view has been adopted by all nations in relation to the Slave Trade.

Although it cannot properly be argued that the taking of seals in any manner whatever is comparable with the immorality or injustice attaching to the Slave Trade, yet, even in the case of vessels engaged in that trade, the rights of nations have not been allowed to be overruled on such pleas.

Upon this point legal authorities both in the United States and in Great Britain are quite clear.

CASE OF "LE LOUIS" ENGAGED IN SLAVE TRADE AND SEIZED.

In 1816 a French vessel ("Le Louis") sailing from Martinique, destined on a voyage to the coast of Africa and back, was captured 10 or 12 leagues to the southward of Cape Mesurada, by the "Queen Charlotte" cutter, and carried to Sierra Leone. She was proceeded against in the Vice-Admiralty Court of that colony.

"Le Louis," 1816. See Dodson's Admiralty Cases, vol. ii, p. 210.

It was alleged that the vessel was fitted out for the purpose of carrying on the African Slave Trade, after that trade had been abolished by the internal laws of France, and by the Treaty between Great Britain and France.

154 The King's Advocate admitted the proposition to be true *generally* that the right of visitation and to search does not exist in time of peace, but denied it be so *universally*. Occasions, he argued, may and must arise, at a period when no hostilities exist, in which an exercise of this power would be justifiable. The rule of law could not be maintained as a universal proposition, but was subject to exceptions, and within those exceptions must be included the present transaction, which was a transgression, not only of municipal law, but likewise of the general law of nations. In whatever light the Slave Trade might have been viewed in former times, it must no longer be deemed *within the* protection of the law of

nations. Since the Declaration of the Congress of Vienna, that the Slave Trade was repugnant to the principles of humanity and of universal morality, traffic in slaves must be considered a crime, and it was the right and duty of every nation to prevent the commission of crime. On the whole, he submitted that the "Le Louis," having been engaged in a traffic prohibited by the laws of her own country, and contrary to the general laws of humanity and justice, ought not to be restored to the claimant.

LORD STOWELL'S JUDGMENT. SEIZURE NOT JUSTIFIED.

Sir William Scott, afterwards Lord Stowell, in the British High Court of Admiralty, held, however, that trading in slaves was not a crime by universal law of nations. He observed:

See Dodson's Admiralty Cases, vol. ii, p. 249.

Neither this Court nor any other can carry its private apprehensions, independent of law, into its public judgments on the quality of actions. It must conform to the judgment of the law upon that subject; and acting as a Court in the administration of law, it can not attribute criminality to an act where the law imputes none. It must look to the legal standard of morality; and upon a question of this nature, that standard must be found in the law of nations as fixed and evidenced by general and ancient and admitted practice, by Treaties and by the general tenour of the laws and ordinances and the formal transactions of civilized States.

Ibid, p. 252.

. . . Much stress is laid upon a solemn declaration of very eminent persons assembled in Congress, whose rank, high as it is, is by no means the most respectable foundation of the weight of their opinion that this traffic is contrary to all religion and morality. Great as the reverence due to such authorities may be, they can not I think be admitted to have the force of overruling the established course of the general law of nations.

* * * * *

See Dodson's Admiralty Cases, vol. ii, p. 252.

155 It is next said that every country has a right to enforce its own navigation laws; and so it certainly has, so far as it does not interfere with the rights of others. But it has no right, in consequence, to visit and search all the apparent vessels of other countries on the high seas.

* * * * *

Ibid., p. 256.

It is said, and with just concern, that if not permitted in time of peace it will be extremely difficult to suppress the Traffic. It will be so, and no man can deny that the suppression, however desirable, and however sought, is attended with enormous difficulties; difficulties which have baffled the most zealous endeavours for many years. To every man it must have been evident that without a general and sincere concurrence of all the maritime States, in the principle and in the proper modes of pursuing it, comparatively but little of positive good could be acquired; so far at least, as the interests of the victims of this commerce were concerned in it; and to every man who looks to the rival claims of these States, to their established habits of trade, to their real or pretended wants, to their different modes of thinking, and to their real mode of acting upon this particular subject, it must be equally evident that such a concurrence was matter of very difficult attainment. But the difficulty of the attainment will not legalize measures that are otherwise illegal. To press forward to a great principle by breaking through every other great principle that stands in the way of its establishment; to force the way to the liberation of Africa by trampling on the independence of other States in Europe; in short, to procure an eminent good by means that are unlawful; is as little consonant to private morality as to public justice. Obtain the concurrence of other nations, if you can by application, by remonstrance, by example, by every peaceable instrument which man can employ to attract the consent of man. But a nation is not justified in

assuming rights that do not belong to her, merely because she means to apply them to a laudable purpose; nor in setting out upon a moral crusade of converting other nations by acts of unlawful force. Nor is it to be argued that because other nations approve the ultimate purpose, they must, therefore submit to every measure which any one State or its subjects may inconsiderately adopt for its attainment.

In accordance with this view of the law, the Judgment of the Vice-Admiralty Court of Sierra Leone, condemning the French ship for being employed in the Slave Trade and for forcibly resisting the search of the King of England's cruizers, was reversed.

CASE OF THE "ANTELOPE"—UNITED STATES SUPREME COURT TO SAME EFFECT.

The decision of the Supreme Court of the United States in the case of the "Antelope" is to the same effect. There Chief Justice Marshall delivered the opinion of the Court, holding that the Slave Trade, though contrary to the law of nature, was not in conflict with the law of nations: Wheaton, Report, vol. 10, p. 66.

156 No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality, that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. A right, then, which is vested in all by the consent of all, can be devested only by consent; and this trade, in which all have participated, must remain lawful to those who can not be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations; and this traffic remains lawful to those whose governments have not forbidden it. Wheaton, Report, vol. 10, p. 122.

If it is consistent with the law of nations, it can not in itself be piracy. It can be made so only by statute; and the obligation of the statute can not transcend the legislative power of the state which may enact it.

If it be neither repugnant to the law of nations, nor piracy, it is almost superfluous to say in this Court, that the right of bringing in for adjudication in time of peace, even where the vessel belongs to a nation which has prohibited the trade, can not exist. The Courts of no country execute the penal laws of another, and the course of the American government on the subject of visitation and search, would decide any case in which that right had been exercised by an American cruizer, on the vessel of a foreign nation, not violating our municipal laws, against the captors.

It follows, that a foreign vessel engaged in the African slave trade, captured on the high seas in time of peace, by an American cruizer, and brought in for adjudication, would be restored.

MR. DANA.

The subject is fully discussed in Mr. Dana's note No. 108 to Wheaton's International Law (p. 258), where it is said of Chief Justice Marshall, in Church *versus* Hubbart, 2 Cranch, 187: Wheaton, "International Law," 8th edition, by Mr. Dana, 1866, p. 359.

It is true, that Chief Justice Marshall admitted the right of a nation to secure itself against intended violations of its laws, by seizures made within reasonable limits, as to which, he said, nations must exercise comity and concession, and the exact extent of which was not settled; and, in the case before the court, the 4 leagues were not treated as rendering the seizure illegal. This remark must now be treated as an unwarranted admission. . . . It may be said that the principle is settled, that municipal seizures can not be made, for any purpose, beyond territorial waters. It is also settled that the limit of these waters is, in the absence of treaty, the marine league or the cannon shot. It can not now be successfully maintained, either that municipal visits and search may be made beyond the territorial waters Ibid., p. 260.

for special purposes, or that there are different bounds of that territory for different objects. But, as the line of territorial waters, if not fixed, is dependent on the unsettled range of artillery fire, and, if fixed, must be by an arbitrary measure, the courts, in the earlier
157 cases were not strict as to standards of distance, where no foreign Powers intervened in the causes. In later times, it is safe to infer that judicial as well as political tribunals will insist on one line of marine territorial jurisdiction for the exercise of force on foreign vessels, in time of peace, for all purposes alike.

PRESIDENT TYLER.

It is an axiom of international maritime law that such action is only admissible in the case of piracy or in pursuance of special international agreement. This principle has been universally admitted by jurists, and was very distinctly laid down by President Tyler in his Special Message to Congress, dated the 27th February, 1843, when, after acknowledging the right to detain and search a vessel on suspicion of piracy, he goes on to say:

State Papers, by Hertslet, vol. xxxii, p. 575.

With this single exception, no nation has, in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, outside the territorial jurisdiction.

ARTICLE VII.

CONSIDERATION OF REGULATIONS POSTPONED.

Great Britain maintains, in the light of the facts and arguments which have been adduced on the points included in the VIth Article of the Treaty, that her concurrence is necessary to the establishment of any Regulations which limit or control the rights of British subjects to exercise their right of the pursuit and capture of seals in the non-territorial waters of Behring Sea. The further consideration of any proposed Regulations, and of the evidence proper to be considered by the Tribunal in connection therewith, must of necessity be for the present postponed.

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158 **CHAPTER X.**

Recapitulation of Argument.

The following are the propositions of law and fact which, it is maintained on behalf of Great Britain, have been established in the foregoing Case:

1. The sea now known as Behring Sea is an open sea, free to the vessels of all nations, and the right of all nations to navigate and fish in the waters of Behring Sea, other than the territorial waters thereof, is a natural right.

2. No assertion of jurisdiction by Russia, the United States, or any other nation could limit or restrict the right of all nations to the free use of the open sea for navigation or fishing.

3. At no time prior to the Treaty of the 30th March, 1867, did Russia possess any exclusive jurisdiction in the non-territorial waters of the sea now known as Behring Sea.

4. At no time prior to the said cession did Russia assert or exercise any exclusive rights in the seal fisheries in the non-territorial waters of the sea now known as Behring Sea.

5. The attempt by Russia in the year 1821 to restrict the freedom of navigation and fishing by the subjects of other nations than Russia in the non-territorial waters of Behring Sea was immediately and effectually resisted by Great Britain and the United States of America.

6. The claims of Russia to limit and interfere with the rights of navigation and fishing by other nations in the waters of Behring Sea, other than the territorial waters thereof, were never recognized or conceded by Great Britain.

7. The protests raised and the objections taken by Great Britain to the claims of Russia to limit such free right of navigation and fishing were acquiesced in by Russia; and no attempt was ever made by Russia to again assert
159 or enforce any such supposed right to exclude or limit the rights of other nations to navigate or fish in the waters of the sea now known as Behring Sea, other than the territorial waters thereof.

8. The assertion of rights by Russia in the year 1821, and her ineffectual attempt to limit the rights of navigation and fishing, was inoperative and had no effect upon the rights of other nations.

9. The body of water now known as the Behring Sea was included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia.

10. From the year 1824 down to 1886 the vessels of Great Britain have continuously, and without interruption or interference, exercised the rights of navigation and fishing in the waters of Behring Sea other than the territorial waters thereof.

11. The right of all nations to navigate and fish in the waters of Behring Sea, other than the territorial waters thereof, have been repeatedly recognized and admitted both by Russia and by the United States of America.

12. Whatever territorial rights passed to the United States under and by virtue of the Treaty of the 30th March, 1867, Russia had not the right to transmit, and the United States did not acquire, any jurisdiction over or rights in the seal fisheries in any part of the sea now known as Behring Sea, other than in the territorial waters thereof.

13. The Treaty of Cession of the 30th March, 1867, did not convey anything more than ordinary territorial dominion.

14. From the acquisition of Alaska by the United States in 1867 down to the year 1886, no attempt was made by the United States to assert or exercise any right to limit or interfere with the right of Great Britain, or of any other nation, to navigate and fish in the waters of Behring Sea other than the territorial waters.

160 15. The sole right of the United States in respect of the protection of seals is that incident to territorial possession, including the right to prevent the subjects of other nations from entering upon land belonging to the United States, or the territorial waters thereof, so

as to prevent their capturing seals or any other animals or fish either on such lands or in such territorial waters.

16. The United States have not, nor has any subject of the United States, any property in fur-seals until they have been reduced into possession by capture, and the property so acquired endures so long only as they are retained in control.

17. Fur seals are animals *feræ naturæ*, and the United States has no right of protection or property in fur seals when found outside the ordinary 3-mile limit, whether such seals frequent the islands of the United States in Behring Sea or not.

18. The right of the subjects of all nations to navigate and fish in the non-territorial waters of the sea now known as Behring Sea remains and exists free and unfettered, and cannot be limited or interfered with except with the concurrence of any nations affected.

19. No regulations affecting British subjects can be established for the protection and preservation of the fur seal in the non-territorial waters of Behring Sea without the concurrence of Great Britain.

CONCLUSION.

It is submitted on behalf of Great Britain to the Tribunal of Arbitration, that the questions raised in this arbitration are of far greater importance than the mere preservation of a particular industry; they involve the right of every nation of the world to navigate on and fish in the high seas, and to exercise without interference the common rights of the human race; they involve the question of the right of one nation by Proclamation to limit and interfere with rights which are the common heritage of all mankind. In defence of these rights and in the interests of all civilized nations, the above arguments are respectfully urged upon the consideration of the Tribunal.

SCHEDULE OF CLAIMS.

The schedule annexed to this Case contains particulars in connection with the claims presented under Article VIII of the Treaty of Arbitration, and the facts and evidence contained in the Schedule are submitted to the consideration of the Tribunal for the purposes stated at p. 12 of this Case.

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SCHEDULE OF CLAIMS.

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, mariner and ship-owner, solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of William Munsle, of the city of Victoria aforesaid, the owner of the hereinafter-mentioned schooner "Carolena."

2. That the said schooner "Carolena" is a British vessel, registered at the port of Victoria aforesaid, of about 32 tons burden, builder's measurement, and that in A. D. 1884 the "Carolena" was rebuilt and lengthened about 15 feet by a section built amidships, and put in first-class order and condition. In A. D. 1885 the said "Carolena" was valued for insurance by the Union Insurance Company at 4,000 dollars, and in A. D. 1886 the Californian Insurance Company placed the same value, namely, 4,000 dollars, upon her for a like purpose. I am informed by the said William Munsle, and believe that since the rebuilding and enlargement of the "Carolena," she has not been reregistered at the port of Victoria aforesaid, nor at any other port, and that consequently her actual tonnage is greater than appears by the official record, or the register of the said "Carolena."

3. That on or about the 20th day of May, A. D. 1886, the said "Carolena" left the port of Victoria aforesaid, after having been duly cleared at Customs, one James Ogilvie being master, and one James Blake mate, and a crew of nine sailors and hunters, on a fishing and hunting voyage in the North Pacific Ocean and Behring Sea.

4. That on the 1st day of August, in said year 1886, while in said Behring Sea in north latitude 55° 50′, west longitude 168° 53′, then being from 65 to 75 miles from the nearest land, and while, as I am informed and verily believe, lawfully pursuing the objects of said voyage, the said schooner "Carolena" was seized by the United States steam-ship "Corwin," and taken to Ounalaska, in the Territory of Alaska, of the United States of America, and her voyage broken up.

5. That on arrival at Ounalaska aforesaid the "Carolena" was, by order of the United States authorities, stripped of her outfit and running-gear, the seal-skins on board taken out, the captain, James Ogilvie, and the mate, James Blake, placed under arrest and sent to Sitka, in said Territory of Alaska, and the crew sent to the city of San Francisco.

6. That upon arrival at Sitka the captain and the mate of the "Carolena" were formally charged with having violated the laws of the United States of America respecting seal-fishing in the waters of Alaska, but before the day fixed for the hearing and trial of said charge Captain Ogilvie disappeared, and was afterwards found dead in or about the neighbourhood of Sitka. The mate, James Blake, was tried, found guilty, and sentenced to pay a fine of 300 dollars and be imprisoned at Sitka for thirty days, and which imprisonment he, James Blake, suffered.

7. That hereto annexed, marked (A), is a Statement of the articles comprising the outfit of the schooner "Carolena" on her departure on said voyage, and all of which I verily believe were on board the "Carolena" at the time of her seizure, excepting only what had been consumed in the ordinary course of the voyage, together with the value of said articles, also of the amount of premiums paid for insurance on the hull, outfit, and cargo of the said "Carolena" for the said voyage; also of the amount of wages paid to the crew and hunters on board the "*Carolena*" up to the time of such seizure; also of the expenses of the

mate and part of the crew in returning to the city of Victoria from Ounalaska and Sitka, and also a Statement of the number of seal-skins on board the "Carolena" at the time of said seizure, and the value thereof

8. The Exhibit (B) hereto annexed is a Statement of the catch of thirteen sealing-vessels in and about the Behring Sea during so much of the season of A. D. 1886 as they were in Behring Sea. The Statement is taken from the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Department of Fisheries for Canada at pp. 248 and 249, and I verily say, from personal knowledge of the facts, that the said Statement is substantial, true, and correct. The schooners "Carolena," meaning the "Carolena" herein mentioned, and "Thornton" and "Onward," were seized on the 1st and 2nd August in 1886, and their voyages thus broken up; the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" not having been in Behring Sea during the season of 1886, the catch of these above-named schooners are not included in estimating the average catch in Behring Sea for that year. On account of the seizures made on the 1st and 2nd August as aforesaid, and of the schooner "Favourite" being ordered out of the sea by the Commander of the said "Corwin," the thirteen vessels mentioned in Exhibit (B), with one or two exceptions, left Behring Sea, or the best sealing-grounds therein, long before the close of the sealing season, and thus the average catch as found in Exhibit (B) is fully, as I verily believe, 500 skins less than it would have been had they all remained till the end of the season.

9. That hereto annexed, marked (C), is a Statement of the legal expenses incurred at Sitka and elsewhere by reason of the seizure of the "Carolena," and the arrest of her captain and mate as aforesaid, and also of the personal expenses connected therewith.

10. That hereto annexed, marked (D), is a Statement of the damages claimed by the owner of the "Carolena" by reason of her said seizure and detention during the years 1886, 1887, and 1888, based upon the average catch of seal-skins per vessel as found by Exhibit (B).

3 11. The price per skin charged in Exhibits (A) and (D), namely, 7 dollars, was the market price at Victoria aforesaid at the close of the season of 1886, and was the price which, in the ordinary course of events, would have been realized for said seal-skins had not such seizure taken place.

12. That hereto annexed, marked (E), is an estimate of the principal sums on which interest is claimed, from the 1st day of October, A. D. 1886, on or about which date the catch of the "Carolena" would have been realized on had she not been seized, and also for the actual outlay by her owner prior to that date, arising by reason of the seizure and detention of the "Carolena," the arrest of the captain and mate, and the expenses of the mate and crew in returning to Victoria from Ounalaska and Sitka.

13. That during the month of October, A. D. 1886, and ever since that time, the minimum rate of interest on money for commercial purposes at the city of Victoria aforesaid was and now is 7 per cent. per annum.

14. That hereto annexed, marked (F), is a Statement of the items of the outfit of the "Carolena" when on said voyage and the value thereof, which would have been wholly consumed in the ordinary prosecution of a full season's hunting and fishing voyage.

15. The prices charged for the articles and groups of articles in Exhibit (A), comprising *the outfit* of the "Carolena," are the market

prices of the said articles and groups of articles at Victoria at the time of their purchase for the purposes of said voyage.

16. That as to the item, "Cash on board and unaccounted for, 500 dollars," charged in Exhibit (A), I am informed by the said William Munsle, and do verily believe, that the said sum of 500 dollars was placed on board the "Carolena" at the time of her departure from Victoria as aforesaid, intrusted to the master, James Ogilvie, for use in cases of emergency or unforeseen expenditures, and I verily believe that said sum of 500 dollars was on board the "Carolena" at the time of her seizure; but owing to the death of Captain Ogilvie at Sitka, it was not known by the said owner what became of the said sum of 500 dollars.

17. That at the time of the seizure of the "Carolena" she was in good order and condition, having been thoroughly overhauled before starting out on said voyage, and not having sustained any damage beyond ordinary wear and tear during said voyage up to the time of her seizure.

18. That the value placed on the "Carolena," namely, 4,000 dollars, is a fair and reasonable valuation of the said schooner, and from my personal knowledge of the "Carolena," and the value of vessels of her class at Victoria, I verily believe that she could not be replaced by a vessel in all respects as good and as well adapted to the purposes for which she was used for a less sum than 4,000 dollars.

19. That on or about the 13th day of July last past I was at Ounalaska aforesaid, and saw and was on board of the said schooner "Carolena." She was then lying anchored in the harbor at Ounalaska, stripped of all her outfit and running gear. Her standing rigging was much weather-beaten, her iron work much rusted, her deck seams in a bad state, and I verily believe, from the condition in which the "Carolena" then was, and in view of the fact that she must remain so exposed until least next May (A. D. 1888), it will cost at least 4,000 dollars to put her in as good repair and condition as when seized and return her to Victoria. To be taken to Victoria under ordinary circumstances would alone cost between 2,500 and 3,000 dollars.

20. That the "Carolena" at the time of her seizure was insured in the California Insurance Company for the sum of 2,500 dollars on her hull, and in the sum of 1,000 dollars on her outfit and cargo.

21. That the estimated loss of 5,000 dollars for each of the years 1887 and 1888 by reason of the seizure and detention of the "Carolena" as aforesaid is based upon an average catch of 2,380 seal-skins for each of the said years, at 5½ dollars per skin, which was the market value per skin at Victoria at the close of the season of 1887, after deducting therefrom the cost of outfit and wages, based on the "Carolena's" voyage of A. D. 1886.

And I, James Douglas Warren, aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the county of Carleton, in the Province of Ontario, this 28th day of November, A. D. 1887, and certified under my official seal.

W. D. HOGG,
Notary Public for Ontario.

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EXHIBIT (A).

Value of the schooner "Carolena" at the time of seizure		$4,000.00
Outfit:		
Groceries	$598.60	
Ammunition	173.34	
Six short guns	300.00	
Five rifles	130.00	
Gun implements and tools	17.29	
Dry goods	71.37	
Ship chandlery	376.83	
Water-casks	12.00	
Chronometer	160.00	
Four canoes and outfit	248.50	
One boat	100.00	
Salt	81.00	
Coal and wood for fuel	37.62	
Cooking stove and utensils	79.00	
Miscellaneous	42.34	
Cash on board and unaccounted for	500.00	
Two sextants	75.00	
		3,002.89
Insurance premium and survey fee on 2,500 dollars on hull and 1,000 dollars on outfit and cargo		352.50
Wages paid to hunters and crews for voyage up to time of seizure.	$1,832.22	
Part of crew having been sent to San Francisco by United States authorities, board of five men at San Francisco and passage-money thence to Victoria	71.72	
Passage-money and expenses of mate, James Blake, from Sitka to Victoria after release from prison	100.00	
		2,003.94
686 seal-skins on board the "Carolena" when seized, and not returned, at 7 dollars per skin		4,802.00
Total, Exhibit (A)		14,161.33

EXHIBIT (B).

Number of seal-skins taken by each of the following thirteen sealing-vessels during the year 1886 in and about the Behring Sea, most of the said vessels leaving the sea before the end of the season, fearing capture.

Vessel.	Number of seal-skins.	Vessel.	Number of seal-skins.
Pathfinder	1,766	Silvia Handy	1,587
Mary Ellen	4,256	Dolphin	2,601
Theresa	2,625	Anna Beck	1,400
Favourite	2,325	Grace	2,550
Black Diamond	1,760	Sayward	2,725
Alfred Adams	2,465		
Active	2,275	Total catch	30,955
City of Santiago	1,620	Average per vessel	2,381

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Carolena"	$500.00
Counsel and other legal fees and expenses in and about the seizure of the "Carolena," and the claims arising thereunder, exclusive of the above 500 dollars	750.00
Personal expenses other than the above in the same connection	250.00
Total	1,500.00

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EXHIBIT (D).

Estimated damages arising from the seizure and detention of the schooner "Carolena" based on the average catch per vessel as given in Exhibit (B), season 1886.

	No.	
Average catch of seals	2,381	
Less on board at seizure, and charged in Exhibit (A)	689	
Balance at 7 dollars per skin	1,695	= $11,865.00
Reasonable and probable profit on operations for year 1887	$5,000.00	
"Carolena," not being released and not available to engage in next year's operations, reasonable and probable profit for 1888	5,000.00	
		10,000.00
Total of Exhibit (D)		21,865.00

EXHIBIT (E).

Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which interest is so claimed.

Value of "Carolena's" estimated catch for 1886—namely, 2,381 skins, at 7 dollars per skin—from the 1st day of October, A. D. 1886, when the catch would have been realized on	$16,667.00	
Actual cash outlay for legal and other necessary expenses incurred by reason of the said seizure	500.00	
Total principal on which interest is claimed from October, A. D. 1886, to date of payment of claim		$17,167.00
Estimated value of the "Carolena" catch for 1887, less cost of outfit and wages of crew and hunters, on which interest at 7 per cent. is claimed from 1st October, A. D. 1887, on or about which date the catch would be realized on to date of payment		5,000.00
If the claim for 1887 be not allowed, then interest is claimed on the value of the "Carolena" from 1st October, 1886, to date of payment		4,000.00

EXHIBIT (F).

Details of items of "Carolena's" outfit consumed during the course of a full hunting and sealing voyage.

Groceries	$598.60
Ammunition	173.34
Dry goods	71.37
Ship chandlery	376.83
Salt	81.00
Coal and wood	37.62
Miscellaneous	42.34
Wages of crew	1,832.22
Total value consumed	3,213.32

6 No. 2.

"Thornton."—Seized by United States steam-ship "Corwin," August 1, 1886.

For—	Amount of claim as put forward by owner	Evidence in support of claim.
Value of vessel, 78 tons	$6,000.00	Two affidavits of J. D. Warren, &c.
Value of outfit (unconsumable)	2,941.64	Do.
Insurance	591.43	Do.
Wages paid to date of seizure to crew, &c.	1,370.00	Do.
Passage-money of crew from San Francisco to Victoria.	177.16	Do.
Passage-money of crew and expenses of captain and mate after release, Sitka to Victoria.	200.00	Do.
Personal expenses of owners	1,000.00	Do.
Legal expenses	1,250.00	Do.
Estimated catch of seals for 1886	16,667.00	Do.
	30,197.23	
Deduct value consumed on a full voyage	3,379.58	
Claim by owner, with interest at 7 per cent. to date of payment.	26,817.65	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am a British subject by birth.

2. That I was sole owner of the British steam-schooner "Thornton," 78 tons burden by builder's measurement, registered at the port of Victoria aforesaid, before and at the time of her seizure hereinafter set out by the United States steam-ship "Corwin."

3. That the said steam-schooner "Thornton" was rebuilt by me in A. D. 1887,* at a cost of 3,500 dollars, and in A. D. 1880 and A. D. 1881 was fitted up with steam-propelling power at an additional cost of 3,000 dollars. Her bottom and sides of above light water-line were coppered and copper fastened.

4. That on or about the 16th day of May, 1886, the said steam-schooner "Thornton" was regularly cleared at the port of Victoria aforesaid for a full season of about four months' fishing and hunting in the North Pacific Ocean and Behring Sea, and that on or about the 27th day of said month of May the "Thornton" finally sailed from Clayoquot Sound, on the south-west of Vancouver Island, on said fishing and hunting voyage.

5. The master of the "Thornton" on and for said voyage was one Hans Guttormsen, of the said city of Victoria, and the mate one Harry Norman, of the same place, and a crew of thirteen men.

6. That on the 1st day of August, A. D. 1886, while in Behring Sea in north latitude 55° 45′ and west longitude 168° 44′, lawfully, as I verily believe, pursuing the objects of said voyage, the said steam-schooner "Thornton" was seized by the United States steam-ship "Corwin," and by the "Corwin" taken to Ounalaska, in the United States Territory of Alaska, and her voyage was broken up.

7. That on arrival at Ounalaska the said "Thornton" was, by order of the United States authorities, stripped of her outfit and running

*Qy. 1877.

gear, the seal-skins then on board taken out, the captain and mate made prisoners and sent to Sitka, in said Territory of Alaska, where, after trial, they were fined, the captain in the sum of 500 dollars, and the mate in the sum of 300 dollars, and each imprisoned for thirty days.

The remainder of the crew, with only two excepted, were sent by the United States authorities to the city of San Francisco by a steamer belonging to the Alaska Commercial Company.

8. That I am informed by Captain Guttormsen that immediately upon the arrival at Ounalaska of the "Corwin" with the "Thornton," he (the captain) entered his solemn protest against the seizure of his vessel and her outfit and the seal-skins then on board.

9. That on or about the 13th day of July of the present year I was at Ounalaska, and saw the said steam-schooner "Thornton," and
7 found her in a very bad condition. She was lying on her bilge on a gravel beach, partially embedded, and exposed to all weathers, and was consequently greatly depreciated in value since her seizure. Her copper is much chafed, her deck seams are opened, through which water had leaked upon the steam-boiler, engine, and machinery, all of which are well nigh ruined. She cannot be brought away from Ounalaska without repairs involving great expense, and not at all before next summer can this be done. I verily believe, from the inspection I then made, that it would cost over 6,000 dollars to take the "Thornton" from Ounalaska to Victoria aforesaid, the nearest port at which the repairs could be made, and put her in as good order and condition as she was in when seized.

10. That at the time of her seizure the "Thornton" was in good repair and condition and perfectly seaworthy, excepting only that her mainmast-head had been carried away during the voyage she then was on.

11. That for and during the said voyage the "Thornton" was insured by Lloyd's underwriters in the sum of 1,200*l.* on the hull and machinery, and in the sum of 1,000*l.* on the outfit and cargo.

12. That hereto annexed, marked (A), is a detailed Statement of the outfit of the "Thornton" for the voyage on which she was seized as above set out, and all of which, excepting only what had been consumed in the regular course of the voyage, was on board the "Thornton" at the time of her seizure; also of the amount of premiums paid by me for insurance upon the hull, machinery, outfit, and cargo of the "Thornton" during the said voyage, and also for wages paid by me to the hunters and crew of the said "Thornton" of said voyage for the time of said voyage up to the said seizure. Also a statement of the sums paid by me for passage-money of the crew from San Francisco to Victoria, and passage-money and expenses of the captain and mate at and from Sitka after their release to Victoria aforesaid.

13. That also in said Statement (A) are charged 403 seal-skins taken from the "Thornton" at the time of seizure, and which, so appears from the Report of the officers of the United States steam-ship "Corwin," submitted to the Court at Sitka on the trial of the said captain and mate of the "Thornton," and the price there charged, namely, 7 dollars per skin, was the market value per skin at Victoria aforesaid, on or about the 1st October, A. D. 1886, when the said skins, had not such seizure taken place, would have been placed on the market at Victoria.

14. That the value placed upon the various articles and groups of articles in the outfit mentioned in Exhibit (A) is the actual cost of the said articles at the city of Victoria aforesaid at the time of their purchase in the spring of 1886.

15. That hereto annexed, marked (B), is a Statement showing the number of seal-skins taken by each one of the thirteen sealing-schooners in and about Behring's Sea during the season of 1886. The said Statement is based upon the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Minister of Marine and Fisheries for Canada for said year at pp. 248 and 249. The schooners "Carolena," "Onward," and said steam-schooner "Thornton" were seized on the 1st and 2nd August of said year when the sealing season was not half over, and the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" were not in Behring Sea during the season of 1886, so that in calculating the average catch for the Behring Sea fleet, the catch of the seven above-mentioned schooners was not included. With one or two exceptions the thirteen sealing-schooners, mentioned in Exhibit (B), left Behring Sea, or the best fishing grounds therein, long before the end of the said season, as their masters feared seizure by the United States authorities, and the said average catch, so found by Exhibit (B), is therefore fully 500 less than it otherwise would have been.

16. That hereto annexed, marked (C), is a Statement of the amount of legal expenses paid and incurred by me at Sitka and elsewhere, and also of the amount of my personal expenses incurred by reason of the said seizure.

17. That hereto annexed, marked (D), is a Statement showing the estimated loss incurred by me as owner of the said "Thornton," by reason of the said seizure and detention, and of the seizure and detention of the seal-skins then on board the "Thornton," and the breaking up of the said sealing voyage. Also, the estimated loss incurred by me during the present year by reason of the non-release of the "Thornton;" and in view of the fact that it is now too late to put the "Thornton" in repair and condition to engage in next year's business, the estimated loss for next year. And I verily believe that the said estimates of the losses incurred by me by reason of the seizure and detention of the said "Thornton" for the years 1886, 1887, and 1888, are fair and reasonable estimates, and rather under than over the actual losses so sustained.

18. That the estimated loss of 5,000 dollars for each of the years 1887 and 1888, by reason of the seizure and detention of the "Thornton," is based upon an average catch of 2,380 seal-skins valued at 5 dol. 50 c. per skin, the market value at Victoria for the present season, deducting from the gross value thereof the cost of outfit and amount of the wages of hunters and crew, based on the "Thornton's" voyage of A. D. 1886.

19. That during and since the year 1886 7 per cent. per annum was, and now is, the minimum rate at which money for ordinary commercial purposes could be obtained at the city of Victoria aforesaid, and that hereto annexed, marked (E), is an estimate of the principal sums on which interest is claimed at the rate of 7 per cent. per annum, and the time for which it is so claimed.

And I, James Douglas Warren aforesaid, make this solemn
8 declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the county of Carleton, this 25th day of November, A. D. 1887, and certified under my official seal.

[SEAL.] (Signed) D. B. MACTAVISH, Notary Public.

EXHIBIT (A).

Value of steam-schooner "Thornton" at time of seizure by United States steam-ship "Corwin"		$6,000.00
Value of "Thornton's" outfit:		
Groceries	$533.37	
Ammunition	340.26	
Dry goods	49.88	
Iron water tanks	50.00	
Ship chandlery for sealing purposes	278.64	
One chronometer	81.45	
Extra suit of new sails	307.18	
Seven No. 10 shot guns	248.00	
Five rifles	125.96	
Gun implements and tools	23.20	
Four new sealing-boats and sails	612.70	
Water casks	25.00	
6 tons salt	90.00	
18 tons coal	126.00	
Cooking range and utensils	50.00	
Total outfit		2,941.64
Insurance:		
Premium on 1,200*l.*—insurance on hull, 10½ *l.* 4*s.*	492.83	
Premium on 1,000*l.*—insurance on outfit and cargo, 20*l.* 3*s.* 4*d.*	98.60	
		591.43
Wages paid hunters and crew up to time of seizure, hunters and crew having been taken to San Francisco by United States authorities	1,370.00	
Passage-money thence to Victoria	177.16	
Passage-money and expenses of Captain Guttormsen and mate, Harry Norman, after release from Sitka to Victoria	200.00	
403 seal-skins on board the "Thornton" at the time of seizure, at 7 dollars per skin	2,821.00	
Total		4,568.16
Total, Exhibit (A)		14,101.23

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (B).

Number of seals taken by the following thirteen sealing schooners during the year 1886 in and about the Behring Sea, most of the thirteen leaving the sea before the end of the season, fearing capture.

Schooners:	No. of Seals.
Pathfinder	1,766
Mary Ellen	4,256
Theresa	2,625
Favourite	3,325
Black Diamond	1,760
Alfred Adams	2,465
Active	2,275
City of Santiago	1,620
Silvia Handy	1,587
Dolphin	2,601
Anna Beck	1,400
Grace	2,550
Sayward	2,725
Total catch	30,955
Average per vessel	2,381

(Signed) D. B. MACTAVISH. *Notary Public.*

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EXHIBIT (C).

Legal expenses at Sitka in connection with seizure of "Thornton"	$500.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Travelling, hotel, and other necessary expenses in connection with said seizure and claims	1,000.00
Grand total, Exhibit (C)	2,150.00

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (D).

Damages arising from the seizure and detention of the "Thornton," based upon the average catch of seal-skins per season as given in Statement (B), season of 1886.

	No.	
Estimated average catch	2,381	
Less 403 skins on board the "Thornton" at the time of seizure, and charged in Statement (A)	403	
Balance, at 7 dollars per skin	1,978	=$13,846.00
Reasonable and probable profit "Thornton" would have earned in 1887 for owner		5,000.00
In view of fact that "Thornton" cannot be made available for next year's operations, reasonable and probable profit for 1888		5,000.00
Total amount, Exhibit (D)		23,846.00

(Signed) D. B. MACTAVISH, *Notary Public.*

Summary of Exhibits.

Value of "Thornton"	$6,000.00	
Value of "Thornton's" outfit	3,533.07	
Wages of crew and hunters	1,370.00	
Passage-money and expenses of officers and crew in returning to Victoria	377.16	
403 seal-skins, at 7 dollars	2,821.00	
Total, Exhibit (A)		$14,101.23
Personal expenses of owner	1,000.00	
Legal expenses	1,250.00	
Total, Exhibit (C)		2,250.00
Balance on estimated seal catch for 1886	13,846.00	
Estimated loss to owner by detention of the "Thornton" during 1887	5,000.00	
Estimated loss on same grounds for 1888	5,000.00	
Total, Exhibit (D)		23,846.00
Total amount of claim		40,197.23

Memorandum.—If the owner of the "Thornton" is indemnified for balance of estimated seal catch for the year 1886, there should be deducted from the total claim the sum of 3,379 dol. 58 c. included in Exhibit (A) for outfit, which would necessarily have been consumed in the prosecution of the voyage, and including the sum of 1,370 dollars paid in wages, as per Exhibit (F).

Total claim	$40,197.23
Value consumed on voyage	3,379.58
Net claim	36,817.65

(Signed) D. B. MACTAVISH, Notary Public.

10

EXHIBIT (E).

Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which interest is so claimed.

Value of "Thornton's" estimated full catch for 1886, namely, 2,381 skins, at 7 dollars per skin, from the 1st October, 1886, when the catch would have been realized on	$16,667.00
Actual cash outlay for legal and other necessary expenses incurred by reason of the seizure before the 1st October, 1886	500.00
Total principal on which interest is claimed since the 1st October, 1886, to date of payment of claim	17,167.00
Estimated value of the "Thornton" catch for 1887, less cost of outfit and wages of crew and hunters, on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, on or about which date the catch would be realized on, to date of payment	5,000.00
If the claim for 1887 be not allowed, then interest is claimed on the value of the "Thornton" at 7 per cent. per annum from the 1st October, A. D. 1886, to time of payment	6,000.00

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (F).

Details of items of "Thornton's" outfit consumed during the course of full sealing and fishing voyage.

ITEMS.

Groceries	$533.37
Ammunition	340.26
Dry goods	49.88
Ship chandlery	278.64
Insurance premiums	591.43
Wages of crew and hunters	1,370 00
6 tons salt	90.00
18 tons coal	126 00
Total value consumed	3,379.58

(Signed) D. B. MACTAVISH, *Notary Public.*

No. 3.

"Onward."—Seized by United States steam-ship "Corwin," August 2, 1886.

For—	Amount of claim as put forward by owners.	Evidence in support of claim.
Value of vessel, 94 tons	$4,000.00	Two affidavits of J. D. Warren, &c
Value of outfit (unconsumable)	1,778.69	Do.
Insurance	260.00	Do.
Wages paid for voyage	1,820.00	Do.
Passage, &c., of master and mate	200.00	Do.
Personal expenses of owner	250.00	Do.
Legal expenses	1,250.00	Do.
Estimated catch	16,667.00	Do.
	26,225.69	
Deduct value consumed during a full voyage	2,955.98	
Claim by owner, with interest at 7 per cent. to date of payment.	23,269.71	

DECLARATION OF JAMES DOUGLAS WARREN.

ITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of ritish Columbia, of the Dominion of Canada, master mariner and ship-wner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Charles Spring, merchant, the said city of Victoria, and owner of the hereinafter-mentioned hooner "Onward."

2. That the said schooner "Onward" is a British vessel of about 94 ns burden, builder's measurement, and at the time of her seizure, as ereinafter set out, was, and now is, registered at the port of Victoria foresaid.

3. That about the 10th day of June, A. D. 1886, the said schooner Onward" sailed from the west coast of Vancouver Island, having reviously cleared at the port of Victoria aforesaid, on and for a full-ason hunting and fishing voyage in the North Pacific Ocean and ehring Sea.

4. That on and for said voyage the crew of the "Onward" consisted Daniel Monroe, of Victoria aforesaid, master; John Margotich, of the me place, mate; and twenty sailors and hunters; all of whom were board the "Onward" at the time of her seizure hereinafter entioned.

5. That on the morning of the 2nd August, A. D. 1886, while in said ehring Sea, in north latitude 54° 32′ and west longitude 167° 55′, and out 68 miles from Ounalaska Island, the nearest land, lawfully, as I rily believe, pursuing the objects of her said voyage, the "Onward" as seized by the United States steam ship "Corwin," and taken in w of said "Corwin" to Ounalaska, in the Territory of Alaska, of the nited States of America, having then on board 400 seal-skins.

6. That upon the said "Corwin's" arrival at Ounalaska aforesaid ith the said "Onward," the "Onward" was, by order of the United tates authorities thereat, stripped of her sails and outfit, the skins on oard taken out, her master, the said Daniel Monroe, and mate, the aid John Margotich, placed under arrest, and her voyage completely roken up.

7. That the said master and mate, Daniel Monroe and John Margo-ch, were by the said United States authorities taken to Sitka, in the id Territory of Alaska, there to be tried on a charge of having iolated the laws of the United States respecting seal fishing in the aters of Alaska. On arrival at Sitka the said master and mate were ound over to appear for trial on said charge, and were on or about e 1st of the month of September following so tried, found guilty, and ntenced—the master, Daniel Monroe, to pay a fine of 500 dollars, e mate, John Margotich, to pay a fine of 300 dollars, and each to be prisoned for the space of thirty days, which imprisonment they ffered.

8. That hereto annexed, marked "(A)" is a statement of the articles mprising the outfit of the "Onward" at the time of her departure said voyage, and the value thereof, all of which were on board the Onward" at the time of her said seizure, excepting only what had een consumed in the ordinary course and prosecution of the voyage; lso of the amount paid for insurance on said voyage, also the amount wages paid the crew and hunters on said voyage, also the amount aid for fares and expenses of the master and mate in returning to ictoria from Sitka after their release, and also of the number and

value of the seal-skins on board the "Onward" at the time of her seizure, and which were taken from the "Onward" at Ounalaska by the United States authorities.

9. That the prices charged for the various articles and groups of articles comprising the outfit of the "Onward" on and for said voyage are the regular market prices of the said articles at Victoria aforesaid at the time of their purchase for use on said voyage. The price charged in said statement for the seal-skins on board the "Onward" when seized, namely, 7 dollars per skin, was the market price per skin at Victoria aforesaid at the close of the sealing season of 1886, when the catch of the "Onward," had not such seizure taken place, would have been placed on the market.

10. That the value of the schooner "Onward," as given in Exhibit (A), namely, 4,000 dollars, is a fair and reasonable value for the said schooner at the time of her seizure; she was then, and had always been, kept in first-class order and condition, and was always a staunch, seaworthy vessel, and for the said voyage had been refitted with new sails and sailing gear.

11. That hereto annexed, marked "(B)" is a statement of the catch of thirteen sealing vessels, in and about Behring Sea, during the season of 1886; the said statement is compiled from the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Department of Fisheries for Canada for that year at pp. 248 and 249, and from personal knowledge of the facts therein set out, I verily believe the said statement to be substantially true and correct. The steam-schooner "Thornton," the schooners "Carolena" and "Onward," meaning the "Onward" herein mentioned, were seized on the 1st and 2nd August, 1886, in Behring Sea, at the beginning of the best sealing period; and the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" were not in Behring Sea during the season of 1886, so in estimating the average catch per vessel in Behring Sea for 1886, the catch of the above-named seven vessels is not included in Exhibit (B); all of the thirteen vessels named in Exhibit (B), with only one or two exceptions, left Behring Sea long before
12 the end of the sealing season of 1886, because of the seizures which had been made by the United States steam-ship "Corwin," fearing to remain lest they also should be seized; by reason of such departure from the said sea, or the best sealing ground therein, before the close of the season, I verily believe that the catch per vessel, as found in Exhibit (B), namely, 2,381 seal-skins, is fully 500 less than it would have been had the said vessels remained the full season in said sea.

12. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere by reason of the said seizure of the "Onward," the arrest and imprisonment of the said master and mate, and the claims arising therefrom, and also of the personal expenses of the said owner and said agent in the same connection.

13. That the Exhibit (D), hereto annexed, is a statement of the estimated loss and damage resulting to the owner of the "Onward" by reason of her seizure and detention in A. D. 1886, A. D. 1887, and A. D. 1888. The estimated loss for the year 1886 is based upon the average catch per vessel, as found in Exhibit (B), less the number of skins on board the "Onward" when seized, the balance being valued at 7 dollars per skin, the price per skin at Victoria at the close of the season 1886. The claim for A. D. 1887 and A. D. 1888 is based upon the same average catch as for A. D. 1886, valued at 5 dol. 50 c. per skin, which was the

market value per skin at Victoria aforesaid at the close of the season 1887, after deducting therefrom the cost of outfit and wages of crew and hunters for each year, based on the "Onward's" said voyage of A. D. 1886. The said claim of 5,000 dollars for each of said years A. D. 1887 and A. D. 1888 is a fair and reasonable estimate of the earnings of the "Onward" in hunting and fishing for the said years.

14. That Exhibit (E), hereto annexed, is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which said interest is so claimed. At the time when the catch of the "Onward" for 1886 would have, in the ordinary course of events, been realized on, namely, on or about the 1st October in said year, the minimum rate of interest on money for commercial purposes was, has since continued to be, and now is, 7 per cent. per annum.

15. That hereto annexed, marked "(F)," is a statement of the articles, and the value thereof, as given in Exhibit (A) of the "Onward's" outfit on said voyage of 1886, including insurance premiums and wages, which would necessarily be wholly, or almost wholly, consumed in the course of a full season's hunting and fishing, such as contemplated by the "Onward" in 1886.

16. That on the 13th day of July last past I was at Ounalaska aforesaid, and was then on board of the said schooner "Onward." She was then lying side-to on a gravel beach, in the harbour of Ounalaska, partially embedded in the gravel, and generally in a very bad condition. Her standing rigging was much weather-beaten, also her deck and side-seams were in a very bad state, the long exposure and severe frosts of the previous winter having broken out the pitch, and, judging from their appearance, they were very leaky. From what I then saw of the condition of the "Onward," I verily believe that she could not be floated and put in a fit state for sea without extensive repairs, which at Ounalaska, where there is neither the requisite workmen nor material, would involve very large expenditure, and that to float the said "Onward," take her to Victoria aforesaid, the nearest port where the requisite facilities exist, and where she could be repaired and refitted at least cost, and there repair and refit her, would cost at least 4,500 dollars.

And I, Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

13 EXHIBIT (A).

Value of the schooner "Onward" at the time of her seizure		$4,000.00
Outfit:		
Groceries	$470.70	
Ammunition	19.07	
Dry goods	68.25	
Ship chandlery	251.59	
Four shot guns	61.00	
Three iron water-tanks	57.00	
Fourteen water-casks	21.00	
Nine canoes and outfit	445.50	
Salt	52.57	
Coal	13.80	
Cooking stove and utensils	56.63	
Chronometer, sextant, and two flags	140.00	
Three extra compasses	24.00	
Sundries	97.58	
		1,778.69
Insurance premium and survey on hull		260.00
Wages paid to hunters and crew for voyage		1,820.00
Fines and expenses of captain and mate from Sitka to Victoria after release		200.00
400 seal-skins on board, at 7 dollars per skin		2,800.00
Total, Exhibit (A)		10,858.69

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (B).

Number of seal-skins taken by each of the following thirteen sealing-vessels during the year 1886 in and about the Behring Sea, most of the said vessels leaving the sea before the end of the said season, fearing seizure.

Vessels.	Seal-skins.	Vessels.	Seal-skins.
Pathfinder	1,766	Silvia Handy	1,587
Mary Ellen	4,256	Dolphin	2,601
Theresa	2,625	Anna Beck	1,409
Favourite	2,325	Grace	2,559
Black Diamond	1,760	W. P. Sayward	2,725
Alfred Adams	2,465		
Active	2,275	Total catch	30,955
City of Santiago	1,620	Average per vessel	2,381

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Onward"	$500.00
Counsel and other legal fees and expenses in and about the seizure of the "Onward," and the claims arising thereunder, exclusive of the above 500 dollars	750.00
Personal expenses other than the above in the same connection	250.00
Total	1,500.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

14 EXHIBIT (D).

Estimated damages arising from the seizure and detention of the schooner "Onward," based on the average catch per vessel for 1886, as given in Exhibit (B).

Average catch seal	2,381	
Less number on board at seizure, and charged in Exhibit (A).	400	
Balance, at 7 dollars per skin	1,981	= $13,867.00
Reasonable and probable profit on operations for the year 1887		5,000.00
"Onward" not being released, and not available to engage in next year's operations, reasonable and probable profit for 1888		5,000.00
Total, Exhibit (D)		23,867.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).

Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which interest is so claimed.

Value of the "Onward's" estimated catch for 1886, namely, 2,381 skins, at 7 dollars per skin, from the 1st day of October, A. D. 1886, when the catch would have been realized on	$16,667.00
Actual outlay for legal and other necessary expenses incurred by reason of the seizure of the "Onward" before the 1st October, 1886	500.00
Total principal on which interest is claimed from October, A. D. 1886, to date of payment of claim	17,167.00
Estimated value of "Onward's" catch for 1887 (less cost of outfit and wages of crew and hunters) on which interest at 7 per cent. per annum is claimed from the 1st October, A. D. 1887, on or about which date the catch would be realized on, to date of payment	5,000.00
If claim for 1887 be not allowed, then interest is claimed on the value of the "Onward" from the 1st October, A. D. 1886, to date of payment	4,000.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).

Value of articles of "Onward's" outfit, which would have been wholly, or almost wholly, consumed on a full hunting and fishing trip.

Groceries	$470.70
Ammunition	19.07
Dry goods	68.25
Ship chandlery	251.59
Salt	52.57
Coal	13.80
Wages	1,820.00
Insurance premiums	260.00
Total consumption during voyage	2,955.98

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1886, as set out in Exhibit (B), be allowed, then the amount of this Exhibit, 2,955 dol. 98 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which *it forms a part.*

15 No. 4.

"Favourite."—Warned out of Behring Sea by United States steam-ship "Corwin," August 2, 1886.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Estimated loss of catch of 1,000 seals.....	$7,000.00	Two affidavits of J. D. Warren, &c.
Claim by owner, with interest at 7 per cent. to date of payment.....	7,000.00	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. I am the duly authorized agent of Charles Spring, merchant, of Victoria aforesaid, the owner of the hereinafter-mentioned schooner "Favourite."

2. That the schooner "Favourite" herein referred to is a British vessel of 80 tons, registered at the port of Victoria aforesaid, and was so registered at the time of the occurrence hereinafter set out, namely, on the 1st and 2nd days of August, A. D. 1886.

3. That towards the end of the month of May, A. D. 1886, after having been duly cleared at the port of Victoria aforesaid, for that purpose, the said schooner "Favourite" sailed on and for a full season's hunting and fishing in the North Pacific Ocean and Behring Sea.

4. That on and for said voyage the crew of the said "Favourite" consisted of Alexander McLean, of Victoria aforesaid, master, a mate, and twenty-three sailors and hunters, and completely equipped and provisioned for a full season of hunting and fishing in said waters.

5. I am informed by the said master of the "Favourite," and several of the crew of the "Favourite," and do verily believe, that on the night of the 1st August, or early morning of the 2nd August, A. D. 1886, the said "Favourite," while in the Behring Sea, not far from where the schooner "Onward" was seized on the said morning of the 2nd August, 1886, and while lawfully pursuing the objects of said voyage, was hailed by United States steam-ship "Corwin," then having in tow the seized vessels "Thornton" and "Carolena." After the usual inquiries as to the name of the vessel, the Commander or officer then in charge of the said "Corwin" ordered the "Favourite" to cease sealing and leave Behring Sea forthwith, otherwise she would be seized, or words to that effect. The master of the "Favourite," not wishing to risk seizure, and fearing that if he remained in the said sea his vessel and cargo would be so seized and threatened by the Commander of the "Corwin," and for no other reason or reasons whatever, at once made all sail and left the said sealing grounds, thereby losing the remainder of the sealing season.

6. That by reason of so being forced to cease sealing and leave Behring Sea at about the beginning of the best period of the sealing season, the "Favourite" lost at least 1,000 seal-skins, and her total catch for the season was reduced by that much.

7. That on said voyage the "Favourite" carried twenty hunters and ten canoes. The schooner "Mary Ellen," of Victoria aforesaid, on a similar voyage the same season, with fifteen hunters and five sealing-boats, not seeing or hearing of the said seizures, and remaining in the sea till or about the close of the sealing season, caught 4,256 seal-skins. The actual catch of the "Favourite" for the said season was only 3,325, though she had one-third more hunters than the said "Mary Ellen," and equally as good, if not better, chances of obtaining as large a catch; and I verily believe that the sum of the actual catch of the "Favourite," together with the 1,000 herein claimed, making a total of 4,325 for the season of 1886, is a fair and reasonable estimate for the catch of the "Favourite" that year, had she not been interfered with as above set out.

8. That the market price per seal-skin at Victoria at the close of the season of 1886 was 7 dollars, and the amount claimed as the value of 1,000 skins lost to the owner of the "Favourite," by reason of her so leaving the Behring Sea is 7,000 dollars.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

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16 DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I have been a resident of the said city of Victoria for the past twenty-nine years, and during that time I have been largely interested in the building, equipment, and management of steam- and sailing-vessels. I have also been engaged in the sealing and fishing business at said city for the past fourteen or fifteen years.

2. The steam-schooners "Grace" and "Dolphin," and the schooner "W. P. Sayward," and the rebuilding and fitting with steam-power of the steam-schooners "Anna Beck" and "Thornton," all of which vessels have been seized in Behring Sea by the United States authorities, were built and done for me, and under my personal direction, and were each owned and managed by me for some time after their completion, and are now managed by me for their respective owner and owners. The schooners "Carolena," "Favourite," "Alfred Adams," "Ada," and "Onward," all also seized in Behring Sea by the United States authorities, were each and all well known to me from personal knowledge. From my interest in the Behring Sea sealing business, I kept myself well posted on the matter and manner of the condition and equipment of the said vessels, and most of the facts stated in the declarations of claim in the case of each of these vessels came under my personal observation. The said vessels, excepting the "Thornton," "Onward," and "Carolena," which are at Ounalaska, are at Sitka, in the United States Territory of Alaska.

3. To bring these vessels from Sitka to Victoria, a distance of about 900 miles, will involve a cost of at least 1,600 dollars to purchase the necessary materials and take them to Sitka, and to convey the necessary men to Sitka and pay their wages. From leaving Victoria until arrival back with any one of said vessels would take about two months, or perhaps a few days less in the summer months, and a few days more in the winter months.

4. A full hunting and sealing season begins as early as the 1st January and up till the 1st March, and extends thence until the end of September.

This season is divided into two parts, the coast season and the Behring Sea season. The coast season terminates about the end of June, but vessels intending to go to Behring Sea generally leave the coast fishing during the month of May, sealing as they go northward, and reaching Behring Sea the end of June or beginning of July. The best period of the sealing season in Behring Sea varies in different years according to the prevailing weather from about the 20th July to the end of September, after which date, though seals are plentiful, stress of weather compels sealing-vessels to leave the sea and go south.

5. On sealing voyages the hunters are paid in lieu of wages so much per seal-skin on each skin they capture, receiving from 2 to 2½ dollars per skin. The masters are generally paid partly in wages and partly in the same manner as the hunters.

The only vessel in the Behring Sea in either of the seasons of 1886 or 1887 that made a reasonably full catch of seals was the schooner "Mary Ellen," of Victoria, which, in the season of 1886, took 4,256 seal-skins. On and for said season the "Mary Ellen" carried fifteen hunters and five boats, an average catch per boat of 851 seal-skins, the five boats being about equal to eight or nine canoes. The "Mary Ellen" was the only vessel in Behring Sea in either 1886 or 1887 which, so far as I know, or am able after inquiry to learn, remained the full season in said sea on and about the best sealing grounds without being disturbed by the United States authorities. And I believe that the said steam-schooners "Grace Dolphin" and "Anna Beck," and the said schooner "W. P. Sayward," which were the best equipped vessels for sealing that had ever entered the Behring Sea, would have, if not seized or disturbed by the United States authorities, made an equally large catch in said years 1886 and 1887, there being no reason why they should not do so.

6. The masters of the steam-schooner "Thornton" and schooner "Onward," and the mate of the schooner "Carolena," after their arrival at Sitka as prisoners in the latter part of August, entered into an agreement with one Clarke, a counsellor-at-law at Sitka, to defend their vessels and themselves on their pending trial at Sitka before the United States District Court, and the charge of 500 dollars for legal expenses at Sitka in the case of each of the said vessels is to cover the claim of said Clarke.

7. The wages of the crew of each of the said seized vessels, except the "Alfred Adams" and "Onward," are based on two months' service expiring on the day of seizure in each case. In the "Adams" and "Onward" cases, the crews were paid up to the time of their arrival at Victoria.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me, at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) J. M. BALDERSON,
Notary Public for Ontario.

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17 No. 5.

"W. P. Sayward."—Seized by United States steam-ship "Richard Rush," July 9, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Passages of crew, &c	$255.00	Affidavit of J. D. Warren, &c.
Passages of officers	250.00	Do.
Personal expenses of owners	250.00	Do.
Legal expenses	850.00	Do.
Probable seal catch, 1887, 3,500 seals, at 5½ dollars	19,250.00	Do.
Loss by detention, 1st October, 1887, to 1st February, 1888.	1,200.00	Do.
Loss of profit in season of 1888 (1st February to 1st October).	6,000.00	Do.
Claim by owner, with interest at 7 per cent. to date of payment	28,055.00	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and shipowner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent, by power of attorney bearing date the 4th November, A. D. 1886, of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, the managing owner of the hereinafter-mentioned schooner "W. P. Sayward."

2. That the said Thomas H. Cooper is, as I am informed and do verily believe, a British subject by birth, and has never renounced his allegiance to the Sovereign of Great Britain.

3. That the said schooner "W. P. Sayward" is a British vessel, having been built at Victoria aforesaid in A. D. 1882, and duly registered at the port of Victoria aforesaid, and was at the time of her seizure, as hereinafter set out, so registered. The said "W. P. Sayward" is 135½ tons burden, by builder's measurement, and is a well and strongly built vessel.

4. That on the 16th day of May, A. D. 1887, after having duly cleared at Customs at the port of Victoria aforesaid for such purpose, the "W. P. Sayward" sailed from Victoria on and for a full hunting and fishing voyage in the North Pacific Ocean and Behring Sea. On said voyage George E. Ferey, of the said city of Victoria, was master; Andrew Laing, of the same place, mate; and the crew numbered, in addition to the master and mate, twenty-two or twenty-three, with nine canoes and one boat for hunting and sealing purposes.

5. On the 2nd day of July then next following, the said "W. P. Sayward" entered Behring Sea, having then on board, as by the report of the master sent to me, 497 seal-skins, all taken on the voyage from

Victoria to Behring Sea prior to the 2nd day of July. After entering the said sea the weather was very thick, and no sealing was done by the "W. P. Sayward."

6. On the 9th day of said July, the "W. P. Sayward" then being in latitude 54° 43′ north and longitude 167° 51′ west, and about 58 miles from Ounalaska Island, the nearest land, and lawfully pursuing the objects of her voyage, was seized by the United States steam-ship "Richard Rush," and taken to Iloolook Harbour, at Ounalaska Island, in the United States Territory of Alaska. At said harbour the seal-skins on board the "W. P. Sayward" were taken out and stored on shore, and the "W. P. Sayward" was, by order of the authorities of the United States, sent to Sitka, in the said Territory of Alaska, in charge of an officer from said "Richard Rush," together with all her crew.

7. Upon arrival at Sitka the "W. P. Sayward" was handed over to United States Marshal Atkins, the master and mate of the "W. P. Sayward," the said George E. Ferey and Andrew Laing, were taken before a Judge and bound over to appear for trial on the 22nd day of August then instant, and from day to day thereafter, on a charge of having violated the laws of the United States relating to seal-fishing in the waters of Alaska. The said master and mate so appeared on the 22nd August and day by day thereafter, until the 9th day of September, when, without having been tried on said charge or any other charge whatever, they were unconditionally released.

8. That hereto annexed, marked "(A)," is a statement of the value of the said schooner "W. P. Sayward" at the time of her seizure by the "Richard Rush," also of the articles, and groups of articles, and the value thereof, comprising the outfit of the "W. P. Sayward" on and for said voyage; also of the amount of premiums paid for
18 insurance of the hull, outfit, and cargo of said schooner during said voyage; also of the amount paid in wages to the crew and hunters on said voyage; also of the fares and expenses of the mate to and from Victoria for instructions, and of the master, mate, and part of the crew in returning to Victoria from Sitka; and also of the number and value of the seal-skins taken from the said schooner when seized.

9. The value placed on the schooner "W. P. Sayward" in said Exhibit (A), namely, 6,000 dollars, is a fair and reasonable valuation of the said schooner, considering her original cost, which was about 7,000 dollars, the condition of repair she was in when seized, and the value of vessels of her class at Victoria aforesaid, for such purposes as the "W. P. Sayward" was designed and used. Immediately before going on said voyage she was thoroughly repaired and refitted, and at the time of her seizure was in first-class order and condition. Besides the outfit mentioned in Exhibit (A), there was on board the "W. P. Sayward" when seized a considerable quantity of extra gear, tackling, and ship stores. The insurance value of the "W. P. Sayward" for the year 1887 was 6,000 dollars, and on and during said voyage she was insured in the sum of 1,000*l.* on her hull, and in 2,000*l.* on her outfit and cargo.

10. The value placed on the various articles and groups of articles comprising the outfit of the said schooner, as given in Exhibit (A), is the market price for each of said articles at Victoria aforesaid at the time of their purchase for the use and purposes of said voyage. The price charged in Exhibit (A) for the seal-skins on board the "W. P. Sayward" when seized, namely, 5 dol. 50 c. per skin, is the market price per skin current at Victoria aforesaid on or about the close of the sealing season of 1887, when the catch of the "W. P. Sayward," had

not such seizure taken place, would have been placed on the said market.

11. That hereto annexed, marked "(C)," is a statement of the legal and personal expenses incurred at Sitka and elsewhere by reason of the seizure of the "W. P. Sayward," the arrest and detention of her master and mate, and the claims arising therefrom.

12. That hereto annexed, marked "(D)," is an estimate of the loss and damage resulting to the owner thereof by reason of the seizure and detention of the schooner "W. P. Sayward" during the season of 1887, and the probable loss from the same cause for the season of 1888. The estimated catch of seals by the "W. P. Sayward" for the season of 1887 is based upon an average catch of 350 seals per boat and canoe for a full season, and I verily believe, had the above seizure not taken place, that, under ordinary circumstances, the total catch of the "W. P. Sayward" for said full season would have been at least the said number of 3,500 seals.

13. That after the close of the sealing season, and during the months of October, November, and December, A. D. 1887 and January 1888, had the "W. P. Sayward" been in her owner's possession she would have been engaged in the coasting and general freighting trade in and about the coasts of British Columbia, and the said claim of 300 dollars per month for each of said months is a fair and reasonable estimate of the earnings of the "W. P. Sayward" for and during said months, after deducting therefrom the cost of wages and running expenses.

14. In order to put the "W. P. Sayward" in order and condition to engage in hunting and fishing the full season of 1888, it is necessary that she should be in her owner's possession at Victoria aforesaid on or before the 1st day of February, A. D. 1888. If not then at Victoria it will be impossible to repair and refit her in time to start out on a full season voyage which begins about the 1st March. As during the summer months there would be little for a vessel like the "W. P. Sayward" to do in the coasting and local freighting trade, if she were not got away on a fishing and hunting voyage the season would be practically lost. The estimated profit on a full season of hunting and fishing by the "W. P. Sayward" in 1888, namely, 6,000 dollars, is a fair and reasonable catch estimate, based on a catch of 3,500 seal-skins, and, deducting from the gross value thereof, at 5 dol. 50 c. per skin, the cost of outfit and wages based on the "W. P. Sayward's" voyage of 1887.

15. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. On the 1st October, A. D. 1887, on or about which date the catch of the "W. P. Sayward" for 1887 would have been, in the ordinary course of events, realized on, the minimum rate of interest on money for commercial purposes at the said city of Victoria was, has since continued to be, and now is, 7 per cent. per annum.

16. That hereto annexed, marked "(F)," is a statement of the articles, and groups of articles, and the value thereof, comprised in the outfit of the "W. P. Sayward" on said voyage as given in Exhibit (A), which would have been wholly or almost wholly consumed in the course and prosecution of a full season's hunting and fishing voyage, such as contemplated by the "W. P. Sayward" in 1887.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR, *Notary Public.*

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19 EXHIBIT (A).

Value of the schooner "W. P. Sayward" at the time of her seizure by United States steam-ship "Richard Rush" on the 9th July, A. D. 1887		$6,000.00
Value of "W. P. Sayward's" outfit on said voyage:		
Groceries	$856.67	
Ammunition	202.76	
Dry goods	95.75	
Two iron tanks	50.00	
Water-casks	25.00	
Ship chandlery	101.40	
Four No. 10 shot guns	160.00	
Two rifles	45.00	
Gun implements and tools	9.00	
One sealing boat (returned)		
Nine canoes and outfits	513.00	
8 tons salt	120.00	
5 tons coal	35.00	
Cooking range and utensils	75.00	
		2,288.58
Insurance:		
Premium on 1,000*l.* on hull, 84*l.* 6*s.* 8*d.*	410.70	
Premium on 2,000*l.* on cargo, 105*l.* 13*s.* 4*d*	514.59	
		925.29
Wages paid sailors and hunters for voyage up to time of seizure		1,437.75
Passage-money of mate to Victoria for counsel and instructions and return	100.00	
Fares of master and mate on return to Victoria, and personal expenses	150.00	
Fares of seventeen men (crew) from Fort Simpson to Victoria	255.00	
		505.00
479 seals on board "W. P. Sayward" when seized, at 5 dol. 50 c. per skin.		2,634.50
Total, Exhibit (A)		13,791.12

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "W. P. Sayward"	$100.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Personal expenses of the owner in connection with said seizure and claims	250.00
Total, Exhibit (C)	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).

Damages arising from the seizure and detention of the "W. P. Sayward" during the season of 1887, based upon her reasonable and probable catch of seals for that season.

Estimated catch of seal-skins	3,500	
Less on board at seizure	479	
Balance, at 5 dol. 50 c. per skin	3,021	= $16,615.50
Loss to owners of "W. P. Sayward" by reason of her detention after the close of the sealing season of 1887, namely, for the months of October, November, and December, A. D. 1887, and January, A. D. 1888, when the "W. P. Sayward," if in owner's possession, would have been engaged in coasting trade. Four months, at 300 dollars per month		1,200.00
If owner not put in possession of "W. P. Sayward" on or before the 1st February, 1888, so that she may be put in order and condition to engage in fishing and hunting voyage for season of 1888, reasonable and probable profit for the season of 1888		6,000.00

20

EXHIBIT (E).

Estimate of the principal sums on which interest is claimed at 7 per cent. per annum, and the time for which it is so claimed.

Value of the estimated catch of the "W. P. Sayward" for season of 1887, from the 1st day of October, A. D. 1887, when said catch would have been realized on, viz., 3,500 skins, at 5 dol. 50 c. per skin	$19,250.00
Actual outlay for legal and other expenses on account of said seizure prior to the 1st October, 1887	605.10
Total principal on which interest at 7 per cent. per annum from the 1st October, 1887, is claimed	19,855.10

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).

Value of estimated consumption of articles of "W. P. Sayward's" outfit on a full voyage.

Groceries	$856.67
Ammunition	202.76
Dry goods	95.75
Ship chandlery	101.40
Salt	120.00
Coal	35.00
Wages	1,437.75
Insurance premiums	952.29
Total consumption	3,774.62

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the season of 1887, as set out in Exhibit (D), be allowed, then the amount of this exhibit, 3,774 dol. 62 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms a part.

No. 6.

"Grace."—Seized by United States steam-ship "Richard Rush," July 17, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Value of vessel, 182 tons	$12,000.00	Two affidavits of J. D. Warren, &c.
Non-consumable outfit	1,742.57	Do.
Passages of master and crew	200.00	Do.
Personal expenses of owners	250.00	Do.
Legal expenses	850.00	Do.
Probable catch, 1887—4,200, at 5 dol. 50 c	23,100.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	38,142.57	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and shipowner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the
21 United States of America, the owner of the hereinafter-mentioned schooner "Grace," by power of attorney bearing date the 4th day of February, A. D. 1886.

2. That the said Thomas H. Cooper is, I am informed and do verily believe, a British subject by birth, and never having renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Grace" is a British vessel built at Victoria aforesaid, in A. D. 1881, and duly registered at the port of Victoria aforesaid. By builder's measurement the "Grace" is about 182 tons burden. She is substantially and strongly built, copper fastened throughout, and in A. D. 1885 her bottom and sides to about half-load-line were coppered. Her steam power consists of one large boiler, compound engines, and all necessary fittings, including inside surface condenser, steam fire pumps and hose, and also had on board a double steam cargo winch.

4. The said "Grace" was duly licensed as a passenger boat, and had all the appliances and conveniences required by Canadian law for such vessels.

5. That as such agent as aforesaid, I am the sole manager of the said steam-schooner "Grace" for the said Thomas H. Cooper.

6. That on or about the 23rd day of April, A. D. 1887, having previously duly cleared therefor at the port of Victoria aforesaid, the said steam-schooner "Grace" sailed from Victoria on and for a full season hunting and fishing voyage in the North Pacific Ocean and Behring Sea. On said voyage the crew of the "Grace" consisted of William Petit, of Victoria aforesaid, master, a mate, and twenty-nine sailors and hunters.

7. That on the 6th or 7th day of July following the "Grace" entered the Behring Sea along the 172nd west meridian, through the Amoughta Pass, commonly called the "172nd Pass," having then on board 458 seals taken while on the voyage from Victoria aforesaid to the said pass.

8. That on the 12th day of said July, A. D. 1887, the "Grace" began sealing in said Behring Sea, and from then till she was seized as here-

inafter set out caught 323 seals. On the 17th day of the said month of July the United States steam-ship "Richard Rush" seized the said steam-schooner "Grace" for alleged violation of the laws of the United States of America respecting seal-fishing in the waters of Alaska. At the time of said seizure the "Grace" was in north latitude 55° 3′ and west longitude 168° 40′, then being about 92 miles from Ounalaska Island, the nearest land, and, as I verily believe, lawfully pursuing the objects of said voyage.

9. The "Grace" after being seized was taken to Ounalaska, in the Territory of Alaska, where by order of the United States authorities thereat, all the seal-skins on board, except as hereinafter stated, were taken out and stored at Ounalaska, and all the fire-arms and ammunition taken on board the said "Richard Rush." On removing the seal-skins twelve were missing. Five were afterwards discovered on board the "Grace" and not removed, the remaining seven were not, as far as I know, ever found.

10. After removal from the "Grace" of the said seal-skins as stated in the preceding paragraph 8, a United States officer was placed on board the "Grace," and she was, in charge of said officer, taken to Sitka, in the Territory of Alaska, together with all the crew and hunters. On arrival at Sitka on the 1st August United States Marshal Atkins took charge of the "Grace." The master, the said William Petit, was bound over to appear for trial on the 22nd day of August then instant, on a charge then preferred against him of having violated the laws of the United States respecting seal-fishing in the waters of Alaska. The said master so appeared for trial on the 22nd instant, and thereafter day by day until the 9th day of September next following, when, without having been brought to trial on such a charge or any other charge whatever, he was unconditionally released.

11. That hereto annexed, marked "(A)," is a statement of the value of said steam-schooner "Grace" at the time of her seizure, and of the outfit then on board, also of the premiums paid for insurance on the hull, outfit, and cargo of the "Grace" for and during said voyage; also of the amount of wages paid the crew and hunters on and for said voyage up to time of seizure; also of the expenses and fares of the master and five men at and from Sitka to Victoria aforesaid, and also of the number of the seal-skins on board at the time of seizure and the value thereof.

12. That the value placed upon the said steam-schooner "Grace" at the time of her seizure, namely, 12,000 dollars, is based upon the original cost of the said vessel, the state of repair she was then in, and the general market value of the vessels of the same class at the said port of Victoria, and for the same purpose for which she was designed. The first cost of the "Grace" was between 16,000 and 17,000 dollars. At the time of her seizure she was 6 years old, and in 1885 had been thoroughly repaired, coppered as aforesaid, and generally put in first-class order and condition. On her departure on said voyage she was in good order and condition, and had on said voyage up to the time of seizure sustained no damage beyond ordinary wear and tear. Her insurance value for said year 1887 was placed at 12,500 dollars, and she was, while on said voyage, insured for the sum of 2,000*l.*, and the said value of 12,000 dollars at the time of her seizure is a reasonable and fair value for the said steam-schooner "Grace."

13. That the value in Exhibit (A) placed on the articles, and groups of articles, comprising the outfit of the said "Grace" is the cost price of the said articles at the port of Victoria at the time of their purchase

for the purposes of said voyage. In addition to the outfit named in Exhibit (A), there was on board the "Grace" at the time of her seizure a considerable quantity of general ship stores.

22 14. The price per seal-skin charged in Exhibit (A), namely, 5 dol. 50 c. per skin for the seal-skins on board the "Grace" when seized and taken out at Ounalaska, was the market price at Victoria at the close of the sealing season of 1887, when the catch of the "Grace" for that season, in the ordinary course of events, would have been placed on the market.

15. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere by reason of the seizure of the "Grace" and the arrest of the captain, and the claims arising therefrom, and also of the personal expenses connected therewith.

16. That hereto annexed, marked "(D)," is a statement of the amounts claimed by the owner of the steam-schooner "Grace" by reason of her seizure and detention during the season of 1887, and of the loss arising from the detention of the said "Grace" after the close of said season.

17. The estimated catch by the "Grace" for the season of 1887, namely, 4,200 seal-skins, is based upon a reasonable and probable catch per boat or canoe for that season. Experience in sealing has proved that the greater number of boats or canoes, or both, carried by any one sealing-vessel, the smaller the average per canoe or boat, and it is in view of this that the average per canoe for the "Grace" is put at 300 per canoe, while the average for the steam-schooner "Anna Beck" for the same season is placed at 350, the latter carrying eight canoes and one boat, while the former carried twelve canoes and two boats. The said average catch of 300 seal-skins per canoe and boat for the "Grace" is a fair average catch, and I verily believe that had the "Grace" not been seized as aforesaid, her catch for the season of 1887 would have exceeded the said number of 4,200 seal-skins.

18. That during the months of October, November, and December, A. D. 1887, and January, A. D. 1888, had the "Grace" been in possession of her owner, she would have been engaged in the coasting trade between the various ports of British Columbia. The estimated loss per month of 500 dollars for each of said months is a fair and reasonable estimate of the earnings of the said steam-schooner "Grace" for the said months of October, November, December, and January, after deducting the cost of wages and ordinary running expenses, and I verily believe that the "Grace" would have earned the said sum per month had she been in her owner's possession.

19. That in order to engage in the hunting and fishing of next year, namely, A. D. 1888, and in view of the fact that the "Grace" will require the usual overhauling and fitting out before being sent on so long a voyage, the latest date at which it will be possible to begin necessary repairs and refitting, and have them completed in order to leave at or about the usual date on said hunting and fishing voyage, will be on or about the 1st day of February, A. D. 1888. If the "Grace" be not delivered to the owners at Victoria on or before that date, it will be too late to repair and refit her for a full season hunting and fishing voyage, which begins on or about the 1st March of each year. During the summer months, for a vessel of the class and equipment of the "Grace," there is very little to do in and about the coasting trade, and the season in the event of the "Grace" not being in the possession of her owner on or before the 1st February, A. D. 1888, would be practically lost to her owner. The claim for loss if detained beyond the 1st Feb-

ruary aforesaid is a fair and reasonable estimate of the loss which will in such cases be sustained by the owner of the "Grace."

20. That hereto annexed, marked (E), is an estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. On the 1st day of October, A. D. 1887, when the catch of the "Grace" would have been, in the ordinary course of events, realized on, the minimum rate of interest on money for commercial purposes at the said city of Victoria was, has since continued to be, and now is, 7 per cent. per annum.

21. That hereto annexed, marked (F), is a statement of the articles, and groups of articles, and the value thereof, from Exhibit (A), which would have been wholly, or almost wholly, consumed in the course and prosecution of the said voyage, had not the "Grace" been seized and detained as aforesaid.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the City of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

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23 EXHIBIT (A).

Value of the steam-schooner "Grace" at the time of her seizure		$12,000.00
Outfit:		
Groceries	$948.13	
Ammunition	166.63	
Dry goods	276.17	
Three iron water-tanks	66.00	
Water-casks	25.00	
Ship chandlery	161.18	
Twelve No. 10 shot guns	480.00	
Three rifles	77.50	
One small cannon on carriage for signalling	50.00	
Gun implements and tools	10.50	
Two sealing boats and outfits	249.57	
Twelve canoes and outfits	684.00	
8¼ tons of salt	127.50	
33 tons of coal	231.00	
Cooking range and utensils	100.00	
		3,653.18
Insurance:		
Premium on 2,000*l.* insurance on hull	821.40	
Premium on 2,000*l.* insurance on outfit and cargo	514.59	
		1,335.99
Wages paid crew and hunters on voyage up to time of seizure		2,164.25
Fares from Sitka to Victoria of master and five of the crew, and master's expenses at Sitka		200.00
781 seal-skins on board the "Grace" when seized, at 5 dol. 50 c. per skin		4,295.50
Total, Exhibit (A)		23,648.92

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Grace" and arrest of master	$100.00
Counsel and other legal fees and expenses in and about the seizure of the "Grace," and other claims arising thereunder	750.00
Personal expenses in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).

Estimated loss and damage to the owner of the "Grace," by reason of her seizure and detention, during A. D. 1887.

Reasonable and probable catch of seals for the season of 1887	4,200	
Less number on board when seized, and charged in Exhibit (A)	781	
Balance, at 5 dol. 50 c. per skin	3,419	= $18,804.50
Reasonable earnings of "Grace" during months of October, November, and December, 1887, and January, 1888, had she been in owner's possession, viz., four months at 500 dollars each		2,000.00
Estimated loss for sealing season of 1888, if "Grace" not in possession of owner on or before 1st February, 1888		7,000.00
Total		27,804.50

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

24

EXHIBIT (E).

Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which such interest is so claimed.

Value of the "Grace's" estimated catch of seals for 1887, from the 1st October, A. D. 1887, on or before which date the said catch would have been realized on, viz., 4,200 skins, at 5 dol. 50 c. per skin	$23,100.00
Cash expended for legal and other expenses on account of such seizure up to said date	300.00
Total principal on which interest is claimed at 7 per cent. per annum from 1st October to date of payment	23,400.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).

Value of the articles of the "Grace's" outfit which would have been wholly, or almost wholly, consumed on a full hunting and fishing voyage.

Groceries	$948.13
Ammunition	166.63
Dry goods	276.17
Ship chandlery	161.18
Salt	127.50
Coal	231.00
Wages	2,164.35
Insurance premiums	1,335.99
Total value consumed	5,410.95

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, Notary Public.

Memo.—If the full claim for the season of 1887, as set out in Exhibit (D), be allowed, then the amount of this Exhibit, 5,410 dol. 85 c., will properly appear as a credit, and be deducted from the total of Exhibit (A) of which it forms a part.

No. 7.

"Anna Beck."—Seized by United States steam-ship "Richard Rush," June 23, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Value of vessel	$8,000.00	Two affidavits of J. D. Warren, &c.
Non-consumable outfit	977.50	Do.
Passages of master and crew	460.54	Do.
Personal expenses of owner	250.00	Do.
Legal expenses	850.00	Do.
Probable seal catch, 1887—3,150, at 5 dol. 50 c	17,325.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	27,863.04	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and shipowner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, engineer, by power of attorney bearing date the 4th day of November, A. D. 1886, the owner of the hereinaftermentioned steam-schooner "Anna Beck."

2. That the said Thomas H. Cooper is, as I am informed and verily believe, a British subject by birth, and has never renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Anna Beck" is a British vessel since A. D. 1872, when she was transferred by purchase from the Registry of the port of San Francisco aforesaid to that of Victoria aforesaid, and has since remained on the Registry of the port of Victoria. In 1883 the "Anna Beck" was rebuilt and raised, and in the winter of 1880–81 she was fitted up with steam-propeller, and all the machinery and appliances necessary for such a purpose. The cost of said steam-power and rebuilding was over 8,000 dollars.

4. That as agent, as aforesaid, of the said Thomas H. Cooper, I am the sole manager of the said steam-schooner "Anna Beck."

5. That on the 21st March, A. D. 1887, the said "Anna Beck" sailed from Victoria, having previously cleared for that purpose, on a full season's hunting and fishing voyage in the North Pacific Ocean and Behring Sea. On or about the 25th day of May then next following the "Anna Beck" sailed from the west coast of Vancouver Island for Behring Sea. On and for said voyage to Behring Sea the crew of "Anna Beck" consisted of Louis Olsen, of the said city of Victoria, master; Michael Keefe, of the same place, mate; and twenty-one sailors and hunters, with one sealing-boat and eight canoes, and a complete outfit for a full voyage of hunting and fishing in Behring Sea.

6. That on or about the 28th day of June, A. D. 1887, the "Anna Beck" entered the Behring Sea, and on the 2nd day of July, A. D. 1887, while in said sea, in latitude 54° 58′ north and longitude 167° 26′ west, then being about 66 miles from the nearest land, and lawfully engaged in the objects of said voyage, the "Anna Beck" was seized by the United States steam-ship "Richard Rush," for alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska.

7. That at the time of said seizure the "Anna Beck" had on board 334 seal-skins, most of which had been taken by the "Anna Beck" on her voyage up to the time of entering said sea, and not afterwards. After seizure, the "Anna Beck" was, by the authority of the Commander of the "Richard Rush," taken to Iloolook Harbour, at Ounalaska Island, in the United States Territory of Alaska, where the said seal-skins were taken out and stored on shore, and the arms and ammunition transferred to the said "Richard Rush," either at sea or in said harbour. The master, mate, and crew of the "Anna Beck" were sent to Sitka, in said Territory of Alaska, on the American schooner "Challenge." On their arrival at Sitka aforesaid the master and mate of the "Anna Beck" were taken before a Judge, and bound over to appear before said Judge on the 22nd August then instant, for trial, on a charge of having violated the laws of the United States respecting seal-fishing in the waters of Alaska. The master and mate so appeared for trial on the 22nd day of August, A. D. 1887, and thereafter from day to day until the 9th day of September then next following, when, without having been brought to trial on said charge, or on any other charge whatever, they were unconditionally released.

8. That hereto annexed, marked (A), is a statement showing the value of the said steam-schooner "Anna Beck" at the time of her seizure as above set out, excepting only what had been consumed in the ordinary course and prosecution of the said voyage; also of the outfit, and value thereof, of the "Anna Beck" on said voyage; also of the amounts paid for insurance premiums on the hull, outfit, and cargo of the "Anna Beck" on and during said voyage; also of the amount of wages paid to the crew and hunters for said voyage up to the time of said seizure; also of the fares and expenses of the master and mate from Sitka to Victoria, and of sixteen of the crew of the "Anna Beck" from Fort Simpson to Victoria; and also of the number and value of the seal-skins taken from the said "Anna Beck" after such seizure at Ounalaska Island.

9. The value placed on the said steam-schooner "Anna Beck," namely, 8,000 dollars, is based upon her cost, the order and condition in which she was when seized, and the value of similar vessels at Victoria aforesaid. As stated in the preceding paragraph 3 of this declaration, the "Anna Beck" was fitted with steam propelling power in A. D. 1880–81, and in A. D. 1883 was rebuilt and raised at a total cost of over 8,000 dollars. At the time of her seizure she was in first-class order and condition, having been thoroughly overhauled and refitted for said voyage, and the value claimed for her, namely, 8,000 dollars, is a fair and reasonable value for her at the time of her said seizure.

10. The prices charged in Exhibit (A) for the articles, and groups of articles, comprising the outfit of the "Anna Beck" on said voyage are the market prices at Victoria aforesaid at the time of their purchase for the use and purposes of said voyage, and the price per skin charged for the seal-skins taken from the "Anna Beck" when seized is the market price per skin current at Victoria aforesaid at the close of the season

7, when, in the ordinary course of events, the catch of the "Anna " would have been placed on said market.

That hereto annexed, marked "(C)," is a statement of the legal ersonal expenses at Sitka and elsewhere arising out of the seizure etention of the "Anna Beck," the arrest of her master and mate, he claims arising therefrom.

That hereto annexed, marked "(D)," is a statement of the estimated nd damage to the owner of the said "Anna Beck," by reason of her seizure and detention as aforesaid for the years A. D. 1887 and A. D. 1888. The estimated catch of seals for the season of 1887, namely, 3,150, is calculated upon an average catch per boat and noe of 350 seals, which is a fair and reasonable estimate of the ble catch per boat and per canoe for the boat and each of the s of the said "Anna Beck" during the season of 1887.

After the close of the sealing season of 1887, and during the fol- months of October, November, and December, A. D. 1887, and ry, A. D. 1888, and the said steam-schooner "Anna Beck" been in sion of her said owner, she would have been engaged in the al coasting and freighting trade in and about the coasts of British bia aforesaid, and the reasonable and probable earnings of the a Beck" for said months of October, November, December, and ry, after deducting from the gross amount thereof the cost of s and running expenses, would be at least 500 dollars per month ch of the said months.

In order that the "Anna Beck" may be repaired and refitted in o engage in a full season's hunting and fishing voyage for A. D. it is necessary that she should be in her owner's possession at ia aforesaid on or about the 1st day of February, A. D. 1888. If that date at Victoria and in possession of her owner, it will be sible to put her in fit and proper condition to start out on said e at or about the usual time, which is on or about the 1st in each year. During the summer months there is little for a of the class and equipment of the "Anna Beck" to do in and the general coasting trade, and if not engaged in hunting and as aforesaid the season will be practically lost. The claim of dollars as probable loss and damage to the owner of the "Anna " if she is detained after the 1st February, A. D. 1888, is a fair easonable estimate of his said loss by reason of such detention, e season of 1888.

That hereto annexed, marked "(E)," is a statement of the prin- sums on which interest is claimed, the rate thereof, and the time nd to which it is so claimed. At the time when the catch of Anna Beck" for 1887 would have been realized, on or about the tober, 1887, the minimum rate of interest on money for commer- rposes at Victoria aforesaid was, has since continued to be, and s, 7 per cent. per annum.

That hereto annexed, marked "(F)," is a statement of the arti- f the outfit of the said "Anna Beck," and the value thereof, as in Exhibit (A), which would have been wholly or almost wholly med during the course and prosecution of a full hunting and fish- yage in the Behring Sea.

I, James Douglas Warren aforesaid, make this solemn declara- onscientiously believing the same to be true, and by virtue of Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the Cou of Carleton and Province of Ontario, this 9th day of December, A 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public of Ontari

EXHIBIT (A).

Value of steam-schooner "Anna Beck" at time of seizure by United States steam-ship "Richard Rush" on 2nd July, A. D. 1887		$8,00
Value of "Anna Beck's" outfit:		
Groceries	$876.42	
Ammunition	242.60	
Dry goods	95.76	
Four iron-tanks	82.00	
Casks	10.00	
Ship chandlery	240.06	
Four No. 10 shot gun	160.00	
Two rifles	45.00	
Gun implements and tools	9.00	
One sealing-boat and outfit	140.50	
Eight canoes and outfit	456.00	
8 tons salt	100.00	
25 tons coal	175.00	
Cooking range and utensils	75.00	
		2,727.
Insurance:		
Premium on 1,400*l.* on hull (118*l.* 1*s.* 4*d.*)	574.98	
Premium on 2,000*l.* on outfit (105*l.* 13*s.* 4*d.*)	514.59	
		1,089.
Wages paid crew and hunters up to time of seizure		1,111.
Passage and expenses of captain and mate from Sitka, and sixteen of the crew of the "Anna Beck" from Fort Simpson to Victoria		460.
334 seal-skins on board the "Anna Beck" at time of seizure, at 5 dol. 50 c. per skin		1,837.
Total, Exhibit (A)		15,225.

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

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27 EXHIBIT (C.)

Legal expenses at Sitka in connection with the seizure of the "Anna Beck".	$100.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Personal expenses of the owner in connection with said seizure and claims.	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D.)

ages arising from the seizure and detention of the "Anna Beck" during the season 1887, based upon her reasonable and probable catch of seals for that season.

nated catch	3,150	
skins on board when seized	334	
Balance, at 5 dol. 50 c. per skin	2,816	=$15,488.00
to owner of "Anna Beck" by reason of her detention after the se of the sealing season of 1887, namely, for the months of October, vember, and December, A. D. 1887, and January, 1888, during which ne the "Anna Beck," if in owner's possession, would have been gaged in coasting trade; four months at 500 dollars		2,000.00
wner not put in possession of "Anna Beck" on or before 1st Feb- ary, A. D. 1888, so that she may be put in order and condition to gage in fishing and hunting voyage for 1888, reasonable and probable ofit for the season of 1888		6,000.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).

nate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which said interest is so claimed.

ıe of "Anna Beck's" estimated catch of seals for 1887, about which .te said catch would have been realized on, namely, 3,150 seal-skins, 5 dol. 50 c	$17,325.00
lay for legal and other expenses prior to 1st October, 1887	560.54
Total principal on which interest at 7 per cent. per annum is claimed from 1st October, 1887, to date of payment	17,885.54

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).

icles of the "Anna Beck's" outfit and value thereof as found in Exhibit (A), which ould have been wholly, or almost wholly, consumed on said voyage had it not been oken up.

ceries	$876.42
munition	242.60
goods	95.76
p chandlery	240.06
ns salt	120.00
ons coal	175.00
urance	1,089.57
ges	1,111.50
Total value consumed	3,950.91

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1887, as set out in hibit (D), be allowed, then the amount of this Exhibit, 3,950 dol. c., will properly appear as a credit, and be deducted from the total Exhibit (A), of which it forms part.

28 No. 8.

"Dolphin."—Seized by United States steam-ship "Richard Rush," July 12, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Value of vessel, 174 tons	$12,000.00	Two affidavits of J. D. Warren, &c.
Value of non-consumable outfit	2,051.50	Do.
Passages of master and crew	300.00	Do.
Personal expenses of owner	250.00	Do.
Legal expenses	850.00	Do.
Probable catch, 1887—3,150, at 5 dol. 50 c	24,750.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	40,201.50	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, the owner of the hereinafter-mentioned steam-schooner "Dolphin," by power of attorney bearing date the 4th day of November, A. D. 1886.

2. That the said Thomas H. Cooper is, as I am informed and do verily believe, a British subject by birth, and never having renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Dolphin" is a British vessel, built at Victoria aforesaid in A. D. 1882, and duly registered at the port of Victoria aforesaid. By builder's measurement the "Dolphin" is 174 tons burden. She was substantially built, coppered to above light water-line, and copper-fastened when built, and had not up to the time of her seizure hereinafter set out sustained any damage or strain beyond ordinary wear and tear. Her steam-power consists of one large steel boiler, put in during the winter of 1884–85, compound engines and all the necessary fittings, including inside surface condenser, and also steam fire-pumps and hose, and a double steam cargo winch.

4. The said steam-schooner "Dolphin" was duly licensed as a passenger-boat, and had all the appliances and conveniences required by Canadian laws for such vessels.

5. That as such agent as aforesaid, I am the sole manager of the steam-schooner "Dolphin" for the said Thomas H. Cooper.

6. That on the 16th day of May, A. D. 1887, having previously cleared at the port of Victoria for that purpose, the said "Dolphin" sailed from Victoria on and for a full season's hunting and fishing voyage in the North Pacific Ocean and Behring Sea, and on and for said voyage the crew of the "Dolphin" consisted of myself as master, John Reilly, mate, and crew of thirty-one sailors and hunters.

7. That on the 6th day of July, A. D. 1887, the "Dolphin" entered the said Behring Sea through the Amoughta Pass, commonly called the "172nd Pass," having then on board 590 seals, taken while on the voyage up through the North Pacific Ocean from Victoria aforesaid to Amoughta Pass aforesaid.

8. On the 9th day of said month of July the "Dolphin" began catching seals in Behring Sea, then being in north latitude 54° 18′, and west longitude 168° 40′, and from said 9th day of July until the afternoon of the 12th day of said month of July the "Dolphin" caught twenty-eight seals in said Behring Sea.

9. That on the afternoon of the 12th day of July, A. D. 1887, the United States steam-ship "Richard Rush" seized the said steam-schooner "Dolphin" while lawfully pursuing the objects of said voyage, and then being in north latitude 54° 38′, and west longitude 167° 3′, and about 42 miles from Ounalaska Island, the nearest land, for an alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska. That when said seizure was made the "Dolphin" was lawfully pursuing the objects of said voyage. When the Commander of the said "Richard Rush" made the said seizure he told me that his instructions were to seize everything he found in the sea, or words to the effect.

10. After seizure all the fire-arms and ammunition on board the "Dolphin" were taken on board the said "Richard Rush," a Lieutenant from the latter placed on board the "Dolphin," under whose command the "Dolphin" was taken to the Illoolook Harbour at
29 Ounalaska Island, in the United States Territory of Alaska. After arrival there the 618 seal-skins on board the "Dolphin" were, by order of the United States authorities thereat, taken out and stored. About 2,600 lbs. of salt were also taken out, for resalting the seal-skins. On the 20th day of said July the "Dolphin" sailed from Illoolook Harbour on Ounalaska Island for Sitka, in the said Territory of Alaska, where she arrived on the 31st day of said month of July.

11. On arrival at Sitka the "Dolphin" was taken charge of by United States Marshal Atkins, of the said Territory of Alaska. As master of the "Dolphin" I, with the mate, the said John Reilly, were, on the 16th day of August then next following, taken before a Judge and bound over to appear for trial on the 22nd day of August, A. D. 1887, on a charge then read over to us of having violated the law of the United States of America respecting seal-fishing in the waters of Alaska. We so appeared on the 22nd day of August for trial, and from day to day thereafter, for our trial on said charge. We so appeared thereafter for trial day after day until the 9th day of September following, when, without any trial on said charge or any other charge whatever, we were unconditionally released. From our arrival at Sitka on the 31st July until the 16th day of August following, when we were taken before the Judge, no effort was made to restrain us or in any way deprive us of liberty. The crew of the "Dolphin" lived on board her all the time of their stay at Sitka, and when leaving to return to Victoria by the United States steam ship "Richard Rush" took from the "Dolphin" sufficient provisions and supplies for the trip.

12. That hereto annexed, marked "(A)," is a statement of the value of the steam-schooner "Dolphin" at the time of her said seizure; also of the articles, and groups of articles, comprising her outfit on and for said voyage, all of which, excepting only what had been consumed in the prosecution of the voyage, were on board at seizure, as well as considerable extra supplies and stores not mentioned in Exhibit (A); also of the amount of premiums paid for insurance on the hull, cargo, and outfit of the "Dolphin" for and during said voyage; also of the amount of wages paid to the crew and hunters of the "Dolphin" on said voyage up to the time of her seizure, and of the expenses of the master and

mate in returning to Victoria from Sitka; and also of the number and value of the seal-skins taken from the "Dolphin" when seized.

13. The value placed on the said steam-schooner "Dolphin" in Exhibit (A), namely, 12,000 dollars, is based upon her original cost, the condition which she was in when seized, and the value of vessels of her class and equipment at Victoria as aforesaid. The first cost of the "Dolphin" was over 16,000 dollars. At the time of her seizure she was in first-class order and condition, having been specially repaired and refitted for the voyage she then was on. Her insurance value for 1887 was 12,500 dollars, and she was insured on and during said voyage for 2,000*l.* The said value, namely, 12,000 dollars, is a fair and reasonable value for the "Dolphin" when seized.

14. The prices charged for the articles, and groups of articles, in Exhibit (A), comprising the outfit of the "Dolphin," are the actual cost prices of the said articles, and groups of articles, at the time of their purchase at Victoria for the purposes of said voyage. The price per skin charged in Exhibit (A) for the seal-skins on board the "Dolphin" when seized, namely, 5 dol. 50 c. per skin, was the market price at Victoria aforesaid at the close of the sealing season of 1887, and at which time the said seal-skins would have, had not such seizure taken place, been put upon the Victoria market.

15. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere, and also of personal expenses arising out of the seizure of the "Dolphin," the arrest of the master and mate, and the claims relating thereto.

16. The Exhibit (D), hereto annexed, is a statement of the estimated loss and damage to the owner of the "Dolphin" by reason of her seizure and detention during A. D. 1887. The loss for 1887 is based upon a catch of 4,500 seals at the current price per seal-skin at Victoria at the close of the season of 1887. The "Dolphin," on her voyage, carried thirteen canoes and two sealing-boats, and a crew of thirty-one sailors and hunters. The estimated catch of 4,500 seals by the "Dolphin" for said season is calculated on an average catch of 300 seals per boat and canoe for a full season; and I verily believe that said average catch per boat and per canoe for said season is a fair and reasonable estimate for a full season's work. During the time the "Dolphin" was in Behring Sea, before capture, the weather was very unfavorable for seal-hunting, being both foggy and windy, and the catch for that period is no standard by which to judge of the ordinary and average catch of the season. There are frequently, all through the season, days at a time when no seals at all are taken, and, on the contrary, I have known a single boat to take from thirty to fifty seals per day in fine weather.

17. After the close of the sealing season, and during the succeeding months of October, November, December, and January, had the "Dolphin" been in her owner's possession, she would have been engaged in the coasting trade between the various ports and freighting places on the coasts of British Columbia. During said months the fair and reasonable earnings of the "Dolphin," after deducting from the gross amount thereof the cost of wages and running expenses, would be at least 500 dollars per month.

18. The estimated loss for the season of 1888 is based upon the said average catch of 4,500 seal-skins at the rate of 5½ dollars per skin, after deducting therefrom the cost of outfit, wages, and other necessary expenses of a hunting and fishing voyage based on the "Dolphin's" voyage of A. D. 1887. In order to fit up the "Dolphin" for such voyage

in 1888, it is necessary that she be in her owner's possession on
30 or before the 1st day of February of that year. If not at Victoria aforesaid about that date, it will be impossible to put her in order and condition to leave on such a voyage at the usual time, namely, about the 1st March. During the summer months there is little or no coasting trade for a vessel of the class and equipment of the "Dolphin," and unless she can be sent out on a regular full season of hunting and fishing, her owner will practically lose the profits of the season. And I verily believe that 7,000 dollars is a fair and reasonable estimate of the earnings of the "Dolphin" on such a full season's hunting and fishing voyage.

19. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. At the time when the catch of the "Dolphin" for the season of 1887 would, in the ordinary course of events, have been realized on, namely, on or about the 1st October of that year, the minimum rate of interest on money for commercial purposes at Victoria aforesaid was, has continued to be, and now is, 7 per cent. per annum.

20. That hereto annexed, marked "(F)," is a statement showing the various articles, and groups of articles, comprised in the outfit of the "Dolphin," and the value thereof, as given in Exhibit (A), which would have been wholly or almost wholly consumed on a full season's hunting and fishing voyage, such as that contemplated by the "Dolphin" in 1887.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of steam-schooner "Dolphin" at the time of her seizure		$12,000.00
Outfit:		
Groceries	$985.68	
Ammunition	240.22	
Dry goods	229.30	
Two iron water-tanks	25.00	
Water-casks	55.00	
Ship chandlery	262.03	
Twenty-three shot guns	920.00	
Four rifles	90.00	
One bomb-gun for signalling	60.00	
Gun implements and tools	10.50	
Thirteen canoes and outfit	741.00	
One second-hand boat	75.00	
One new boat (returned)		
9 tons salt	135.00	
41 tons coal	287.00	
Cooking range and utensils	75.00	
		4,190.73
Insurance:		
Premium on 2,000*l.* insurance on hull	821.40	
Premium on 2,000*l.* insurance on outfit and cargo	514.59	
		1,335.99

Wages paid crew and hunters on voyage up to date of seizure	$1,899.50
Fares and expenses of master and mate, and five of crew, from Sitka to Victoria, B. C	300.00
618 seal-skins on board "Dolphin" when seized, at 5 dol. 50 c. per skin	3,399.00
Total, Exhibit (A)	23,125.22

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure and detention of the "Dolphin" and arrest of master and mate	$100.00
Counsel and other legal fees and expenses in and about the seizure of the "Dolphin" and the claim arising therefrom	750.00
Personal expenses of the owner in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

31

EXHIBIT (D).

Estimated loss and damages to the owner of the "Dolphin" by reason of her seizure and detention during A. D. 1887.

Reasonable and probable catch of seal-skin for season 1887	4,500	
Less number on board when seized	618	
Balance, at 5 dol. 50 c. per skin	3,882 =	$21,351.00
Reasonable earnings of the "Dolphin" during the months of October, November, and December, A. D. 1887, and January, A. D. 1888, had she been in owner's possession, viz., four months, at 500 dollars per month		2,000.00
Estimated loss for sealing season of 1888 if "Dolphin" not in possession of owner on or before the 1st of February, 1888		7,000.00
Total		30,351.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).

Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed.

Value of the estimated catch of the "Dolphin" for the season of 1887, from the 1st October, 1887, about which time the said catch would have been realized on, viz., 4,500 seal-skins, at 5 dol. 50 c	$24,750.00
Cash expenditure for legal and other expenses on account of said seizure prior to the 1st October, 1887	400.00
Total principal on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, to date of payment of claim.	25,150.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).

Value of the articles of the "Dolphin's" outfit, which would have been wholly, or almost wholly, consumed on a full hunting and sealing voyage.

Groceries	$985.00
Ammunition	240.22
Dry goods	229.30
Ship chandlery	262.03
Salt	135.00
Coal	287.00
Wages	1,899.50
Insurance premiums	1,335.99
Total value consumed	5,374.72

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1887, as set out in Exhibit (D), be allowed, then the amount of this Exhibit, 5,374 dol. 72 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms a part.

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32 No. 9.

"Alfred Adams."—Seized by United States steam-ship "Richard Rush," July 10, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Value of outfit seized	$683.00	Two affidavits of J. D. Warren, &c.
Personal expenses	200.00	Do.
Legal expenses	300.00	Do.
Probable catch—3,500, at 5 dol. 50 c.	19,250.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	20,433.00	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and shipowner, do solemnly and sincerely declare as follows:

1. I am the duly authorized agent, under power of attorney bearing date the 23rd day of November, A. D. 1887, in this behalf of the firm of Gutman and Frank, of the city of Victoria aforesaid, merchants, the said Gutman being owner of the hereinafter-mentioned schooner "Alfred Adams," and his partner, the said Frank, being equally interested with Gutman in the results of the sealing voyage hereinafter referred to.

2. The said schooner "Alfred Adams" is a British vessel of 69¾ tons, registered at Victoria aforesaid.

3. That on or about the last of May, or early in June, A. D. 1887, the said schooner "Alfred Adams" sailed from the port of Victoria aforesaid, on a full hunting and sealing voyage in the North Pacific Ocean and Behring Sea. On or for said voyage the crew of the "Alfred Adams" consisted of William H. Dyer, master, a mate, and crew of twenty-four sailors and hunters, and fully equipped and provisioned.

4. That on the 10th day of July, A. D. 1887, the "Alfred Adams" entered Behring Sea, and continued therein until the 6th day of August following, when, in north latitude 54° 48′, and west longitude 167° 49′, then being about 62 miles from Ounalaska Island, the nearest land, and lawfully, as I verily believe, pursuing the objects of the said voyage, the "Alfred Adams" was seized by the United States steam-ship "Richard Rush" for alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska.

5. That immediately after such seizure the Commander of the "Richard Rush" ordered the seal-skins then on board the "Alfred Adams," and all the fire-arms and ammunition, and Indian spears on board, to be taken out, and said seal-skins to the number of 1,386, and the fire-arms, ammunition, and spears, were taken from the said schooner "Alfred Adams," and conveyed to the United States steam-ship "Richard Rush." The ship's papers of the "Alfred Adams" were also taken from her by the Commander of the "Richard Rush," and, as I verily believe, the master and mate of the "Alfred Adams" placed under arrest, though not actually imprisoned.

6. Hereto annexed, marked (A), is a statement of articles and value thereof, as claimed by the said Gutman and Frank, which were so taken by the "Alfred Adams."

7. That hereto annexed, marked (B), is an estimate of the loss claimed by the said Gutman and Frank, as resulting to them by reason of the seizure of the "Alfred Adams," herein set out, and of the legal and personal expenses incurred by reason of said seizure and the claims arising therefrom. The price per skin charged for the estimated catch of the "Alfred Adams" for a full season, namely, 5 dol. 50 c. per skin, was the current market price per skin at Victoria at the close of the sealing season of 1887. The catch of the "Alfred Adams" for said season is estimated from an average catch per canoe of 350 seals, the "Alfred Adams" having on said voyage ten canoes.

8. That hereto annexed, marked (E), is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, the rate per cent., and the time from and to which it is so claimed. At the time when the catch of the "Alfred Adams" for the season of 1887 would have been, in the ordinary course of events, realized on, namely, on or about the 1st October, A. D. 1887, the minimum rate of interest on money for commercial purposes at Victoria aforesaid was 7 per cent. per annum.

And I, James Douglas Warren aforesaid, make this solemn
33 declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Statement of the articles and the value thereof taken from the schooner "Alfred Adams" by the United States steam-ship "Richard Rush," in Behring Sea, the 6th August, 1887.

1,386 seal-skins, at 5 dol. 50 c. per skin	$7,623.00
Four kegs of powder at 10 dollars	40.00
500 shells	60.00
Three cases caps and primers	60.00
Nine breech-loading shot guns	450.00
One Winchester rifle	25.00
Twelve Indian spears	48.00
Total value taken	8,306.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (B).

Loss to the owner of the "Alfred Adams" by reason of her being forced to leave Behring Sea and return to Victoria, British Columbia.

Reasonable and probable catch of seals by the "Alfred Adams" for the season of 1887	3,500	
Less number on board when seized, and charged in Exhibit (A)	1,386	
Balance, at 5 dol. 50 c. per skin	2,114	=$11,627.00
Legal expenses in connection with the claims arising from said seizure	$300.00	
Personal expenses in the same connection	200.00	
		500.00
Total		12,127.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).

Principal sum on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed.

Value of the probable catch of the "Alfred Adams" for season of 1887, from the 1st October, 1887, on or about which date said catch would have been realized on, viz., 3,500 seal-skins, at 5 dol. 50 c.	$19,250.00
Total sum on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, until time of payment	19,250.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

34 No. 10.

"Ada."—Seized by United States steam-ship "Richard Bear," August 25, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Value of vessel, 68 tons	$7,000.00	Two affidavits of J. D. Warren, &c.
Value of non-consumable outfit	2,500.00	Do.
Passage, &c., of master	100.00	Do.
Personal expenses	250.00	Do.
Legal expenses	850.00	Do.
Probable catch, 1887—2,876, at 5 dol. 50 c	15,818.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	26,528.00	

DECLARATION OF JAMES DOUGLAS WARREN.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent, under power of attorney bearingdate the 25th day of November, A. D. 1887, of James J. Gray, of the said city of Victoria, ship-owner, and owner of the hereinafter-mentioned schooner "Ada."

2. That the said schooner "Ada" is a British vessel of 65 tons, registered at the port of Shanghae, and was, at the time of her seizure hereinafter set out, 5 years old.

3. That on or about the 16th day of June, A. D. 1887, the said schooner "Ada" cleared at the port of Victoria aforesaid, on and for a full hunting and fishing voyage in the North Pacific Ocean and Behring Sea. For said voyage the crew of the "Ada" consisted of James Gaudin, master, a mate, and twenty sailors and hunters, with two sealing boats and seven canoes, and fully equipped and provisioned for such voyage.

4. The "Ada" entered Behring Sea on or about the 16th day of July, A. D. 1887, and continued therein lawfully pursuing the objects of her voyage until the 25th day of August then next following, when, while so lawfully pursuing the objects of her voyage in said sea about 15 miles northward from Ounalaska Island, which said island was the nearest land, the said schooner was seized by the United States steam-ship "Bear," and taken to Illoolook Harbour at said Ounalaska Island, in the United States Territory of Alaska, and her voyage completely broken up.

5. At the time of said seizure the "Ada" had on board 1,876 seal-skins, which upon arrival at Illoolook Harbour aforesaid were taken from on board the "Ada" and stored on shore, after which, by order of the United States authorities, the "Ada" was taken to Sitka, in said Territory of Alaska, together with the master, mate, and crew.

6. That the said "Ada" arrived at Sitka on the 6th day of September, A. D. 1887, and on the 9th day of the said month her master and mate were, without being tried for any offence whatever, unconditionally released, but the "Ada" kept at Sitka, where she still remains.

7. That hereto annexed, marked "(A)," is a statement showing the value of the "Ada" at the time of her said seizure, and the value of her outfit on and for said voyage, also of the number and value of the seal-skins taken from the "Ada" when seized, and also of the expenses of the master and mate of the "Ada" in returning from Victoria to *Sitka.*

8. The value placed on the "Ada" by her said owner at time of seizure, namely 7,000 dollars, is a fair and reasonable value for the "Ada" when seized. She is a substantially built craft in every respect, and is one of the best sailing-vessels engaged in the sealing trade. The value of the "Ada's" outfit given in said Exhibit, namely, 2,500 dollars, is less than that of any of the other seized vessels from the fact that the "Ada's" hunters were mostly Indians, whose canoes and outfits were returned after such seizure, and said outfit not including wages.

9. The price charged for the seal-skins taken from the "Ada" when seized is the current market price of seal-skins at Victoria at the close of the sealing season of 1887.

10. That the Exhibit (C), hereto annexed, shows the legal and personal expenses incurred by the owner of the "Ada" by reason of the seizure and detention of the said schooner "Ada," and the arrest and detention of the master and mate, and the claims arising therefrom.

35 11. That Exhibit (D), hereto annexed, is a statement of the estimated loss and damage to the owner of said schooner "Ada" by reason of her said seizure and detention during 1887, and the loss for 1888 if she is detained beyond the 1st February, 1888.

12. The claim of 1,000 seal-skins as the probable additional catch of the "Ada" for the balance of the sealing season, had she not been seized, is a fair and reasonable estimate, and with her actual catch, making a total for the season of 2,876, which, as she carried two boats, seven canoes, and twenty hunters, cannot be considered an excessive estimate.

13. During the months of October, November, December, and January following the close of the sealing season, or the greater part thereof, had the "Ada" been in her owner's possession, she would have been engaged in the general coasting and freighting trade on and about the coasts of British Columbia, and the fair and reasonable earnings of the "Ada" during said months, after deducting from the gross amount thereof the cost of wages and running expenses, would be at least 500 dollars per month.

14. In case the "Ada" be not delivered into her owner's possession at Victoria on or before the 1st day of February, A. D. 1888, it will be impossible to give her the necessary repairs and refitting in time to start out at the usual date, about the 1st March, on a full season's hunting and fishing. As during the summer months there is little coasting and freighting trade in which the "Ada" could be employed, her owner would, in the event of her not being ready in time for a regular hunting and fishing voyage, practically lose the greater part of the season, and the earnings of the "Ada" for such full season, after deducting therefrom the cost of outfit, wages, and other running expenses, would be at least, under circumstances, 6,000 dollars.

15. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. is claimed, and the time from and to which it is so claimed. At the close of the sealing season of 1887, when the catch of the "Ada," in the ordinary course of events, would have been realized on, the minimum rate of interest on money for commercial purposes was, has continued to be, and now is, 7 per cent. per annum.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of the schooner "Ada" at the time of her seizure by the United States steam-ship "Bear," the 25th August, 1887	$7,000.00
Value of "Ada's" outfit at the same time	2,500.00
Value of seal-skins on board at seizure, viz., 1,876 skins, at 5 dol. 50 c. per skin	10,318.00
Passage and expenses of master of "Ada" from Sitka to Victoria	100.00
Total, Exhibit (A)	19,918.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with said seizure	$100.00
Counsel and other legal fees and expenses, exclusive of the above, in reference to the seizure and claims arising therefrom	750.00
Personal expenses of the owner in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

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36 EXHIBIT (D).

Estimated additional catch of seal-skins by schooner "Ada" had she not been seized, viz., 1,000 skins, at 5 dol. 50 c	$5,500.00
Loss to owner of "Ada" by reason of her detention during the months of October, November, and December, A. D., 1887 and January, 1888, during which she would have been engaged in the coasting trade, namely, four months, at 500 dollars each	2,000.00
If owner not put in possession of "Ada" on or before the 1st February, 1888, so that she may be fitted out for hunting and fishing voyage of 1888, reasonable and probable profit on season of 1888	6,000.00
Total, Exhibit (D)	13,500.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).

Principal sums on which interest is claimed at 7 per cent. per annum, and the time for which it is so claimed.

Value of the probable full catch of "Ada" for season of 1887, viz., 2,876 skins, at 5 dol. 50 c	$15,818.00
Cash outlay prior to the 1st October, 1887	200.00
Total principal on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, to date of payment	16,018.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, Notary Public.

No. 11.

iumph."—Ordered not to enter Behring Sea by United States steam-ship "Richard Rush," August 4, 1887.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
illegal boarding and searching of "Tri-ph," as set forth in affidavit.	$2,000.00	Affidavit of George Byrnes.
seal-skins	8,000.00	Do.
l and other expenses	250.00	Do.
n of owner, with interest at 7 per cent. to e of payment.	10,250.00	

DECLARATION OF MR. GEORGE BYRNES.

OVINCE OF BRITISH COLUMBIA, *City of Victoria.*

, George Byrnes, of the City of Victoria, Province of British Colum-
Dominion of Canada, commission merchant, do solemnly and sin-
ly declare as follows:

1 the year 1887, at the time of the occurrences set out in paragraphs , 3, 4, 5, and 6 of this declaration, I was the owner of the British ooner "Triumph," registered at the port of Victoria, British Columbia.

. On the 20th day of May, 1887, the said schooner sailed from the l port of Victoria on a fur-seal hunting voyage in the North Pacific an and Behring Sea, having first been duly cleared at Her Majesty's toms for that purpose.

On such voyage one George Errington, who is now out of this ntry, was master of said schooner "Triumph," and one Herman th, mate.

3. In the month of September the said schooner returned to the port of Victoria with 480 seal-skins on board, and the master, Captain Errington, and mate, Smith, reported to me the follow-occurrences, which I verily believe to be true.

. Upon leaving Victoria on the 20th May, 1887, the "Triumph" sailed the west coast of Vancouver Island, and she reshipped a number Indian seal-hunters and sailed northward.

. On the 4th day of August the "Triumph" was about 10 miles off southward of Ounimak Pass, one of the entrances to Behring Sea. out 8 o'clock on the morning of that day the "Triumph" was boarded Lieutenant Tuttle, of the United States revenue cutter "Richard sh." He demanded the ship's papers, which were handed to him. He o asked if there were any seal-skins, liquor, or guns on board the riumph." He was told that there were forty-nine seal-skins and one e on board, but no liquor. He then searched the "Triumph" all er. He also asked where the seal-skins were caught, and upon being d, demanded the log-book, and took the position from that as to where e seal-skins were caught. Lieutenant Tuttle then went back to the Richard Rush," but soon returned saying that Captain Shepard could en seize the "Triumph," but thinking the crew were working for them-ves, he would not do so, provided the "Triumph" went back at once to ctoria, and would leave the rifle, provided that there was no ammuni-n for it on board. He then went on board the "Richard Rush," but turned in a short time to ask if the captain had made up his mind hat he would do, and demanded a decided answer. He was told that answer would be given, and about the same time the Captain of the

"Richard Rush" called out that if the "Triumph" went into Behring Sea he would seize her. The "Richard Rush" shortly after sailed away.

6. In consequence of the acts and threats of the officers of the "Richard Rush," the said schooner's sealing voyage was practically broken up, and I verily believe that, but for such acts and threats, the said schooner would have taken at least 1,000 in addition to the number actually caught on her said voyage.

7. At the close of the sealing season of 1887, fur-seals were worth at least 8 dollars per skin.

8. I, for myself and the crew of the said schooner on said voyage, claim for the Government of the United States damages for the illegal boarding and searching of the said schooner "Triumph," and for the breaking up of the said schooner's sealing voyage, whereby I and the said crew lost the benefit and advantage of a catch of at least 1,000 seal-skins, and for expenses, cost, and charges incidental to the preparation and submission of this claim therefor, and interest thereon until paid.

9. Hereunto annexed is a statement of such claim.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

Solemnly declared at the city of Victoria, British Columbia, this 4th day of August, 1890.

(Signed) GEORGE BYRNES.

Before me,

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

Statement of Claim.

For illegal boarding and searching of "Triumph," as set out in foregoing declaration	$2,000
1,000 seal-skins, at 8 dollars	8,000
Legal and other expenses incidental to the preparation and submission of this claim	250
Total	10,250

(Signed) GEORGE BYRNES.

(Signed) A. L. BELYEA,
Notary Public, British Columbia.

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38 No. 12.

"Juanita."—Seized by United States steam-ship "Richard Rush," July 31, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
620 skins seized, at 8 dollars	$4,960.00	Affidavits of Charles E. Clarke and Richard Hall.
Balance of estimated catch for 1889, at ditto	9,424.00	Do.
Spears, &c	36.00	Do.
New ship's papers	25.00	Do.
Legal and other expenses	250.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	14,695.00	

AFFIDAVIT OF CHARLES E. CLARKE.

Y OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

, Charles E. Clarke, of the city of Victoria, in the Province of British umbia, Dominion of Canada, master mariner, do solemnly and sin-ely declare as follows:

. I am the duly registered owner of sixteen sixty-fourths of the tish vessel "Juanita," schooner-rigged, of the port of Victoria afore-l, the other owners of said vessel being Richard Hall, merchant, lliam J. Goepel, merchant, both of the said city of Victoria, and us Helgeson, of the same place, fisherman, each owning an equal nber of shares in said vessel.

. On the 7th day of May, A. D. 1889, I cleared the said "Juanita" at custom-house at the said port of Victoria for a sealing and hunting age in the North Pacific Ocean and Behring Sea. On the said voy- I was master of the said vessel, and had a sailing crew of four men.

"Juanita" sailed from the port of Victoria on the 8th May last, was equipped and provisioned for a full season's voyage and pur-es above mentioned.

. On the west coast of Vancouver Island I took on board fourteen ian hunters, and then sailed northward.

. On the 2nd day of July last the "Juanita" entered Behring Sea ough the Ounimak Pass.

. Early in the morning of the 31st July last the United States revenue ter "Richard Rush" steamed up to the "Juanita" and demanded t I heave my vessel to. I did so, and was at once boarded by three ers from the "Rush." The officer in charge asked me if I had any l-skins on board, and asked me if I had taken any seal in Behring I told him I had come into the sea on the 2nd July, and had about skins on board. He then reported to the Captain of the "Rush," rming me that he would have to seize my vessel and her cargo.

. The Captain of the "Rush" ordered the seal-skins to be taken from "Juanita" and put on board the "Rush," which was at once done, number taken being 600. A demand was made by the boarding er for my ship's papers, and all guns, ammunition, and spears on rd. He obtained the ship's papers and spears (twelve in number), ich were taken on board the "Rush."

. Hereto annexed, marked "A," is a copy of the certificate of seizure en to me by the officer from the said steamer "Richard Rush," who instructed me to proceed to Sitka, in the Territory of Alaska, and deliver a sealed letter, which he then handed me, to the United tes District Attorney of that place.

. Being unable to continue sealing and hunting, I sailed out of Beh-g Sea, and arrived at Victoria aforesaid on the 30th day of August last.

. On my arrival at Victoria I handed the said sealed letter to the llector of Customs.

10. Had the "Juanita" not been seized, and her hunting implements ken away, I verily believe that the said "Juanita" would have made otal catch in Behring's Sea the full season of 1889 of not less than 00 seal-skins.

Declared at the city of Victoria, British Columbia, by the said Charles Clarke, the 15th day of October, A. D. 1889.

(Signed) CHARLES E. CLARKE.

Before me,

(Signed) ARTHUR LOUIS BELYEA,

Notary Public by Royal authority in and for the Province of *British Columbia, residing and practicing at* Victoria aforesaid.

39 CERTIFICATE.

United States steamer "Rush," Behring Sea,
Lat. 55° 42′ N., Long. 170° 40′ W., July 31, 1889.

To whom it may concern:

This will certify that I have this day seized the British schooner "Juanita," of Victoria, British Columbia, C. E. Clarke, master, for violation of law, section 1956, Revised Statutes, United States, and taken possession of his ship's papers, consisting of registry and clearance.

(Signed) L. G. SHEPARD,
Captain, United States Revenue Marine.

This is the Exhibit marked (A) referred to in annexed declaration of Charles E. Clarke, made before me the 15th day of October, 1889.

(Signed) A. G. BELYEA, *Notary Public.*

AFFIDAVIT OF RICHARD HALL.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Richard Hall, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, merchant, of the firm of Hall, Goepel, and Co., do solemnly and sincerely declare as follows:

1. That the said firm of Hall, Goepel, and Co., are the owners of thirty-two shares of the hereinafter-mentioned schooner "Juanita," of the port of Victoria aforesaid, and are the business managers of the said schooner.

2. The said schooner was in May last sent by the said firm on a sealing and hunting voyage in the North Pacific Ocean and Behring Sea.

3. The said schooner returned to Victoria the last of August, having taken, as I am informed, and do believe, by the captain of the said schooner, on said voyage, 652 seal-skins, of which number the said firm received only thirty two skins, sent to us from said schooner by the "Wanderer" before the "Juanita" entered Behring's Sea, said thirty-two seal-skins having been taken outside Behring Sea.

4. The remainder of the seal-skins taken by the "Juanita" was, as I am informed by the said captain, and do verily believe, taken from the "Juanita" on or about the 31st day of July last, when said schooner was in Behring Sea, by the orders of the Commander of the United States steamer "Richard Rush."

5. The market value of seal-skins at the said port of Victoria on or about the 1st October instant, when, in the ordinary course, the "Juanita" would have arrived after a full season's voyage aforesaid, was 8 dollars a skin.

6. From the number of seal-skins taken by the "Juanita" up to the said 31st July I verily believe that the said schooner would, in a full season, have taken at least 1,800 seal-skins.

7. At the same time the seal-skins were taken from the "Juanita" by the officers of the said United States steamer "Richard Rush," there was also taken by the said officers, as I am informed by Captain Clarke, and do believe, twelve spears, the value of which was 3 dollars each, and the ship's papers.

8. The said firm of Hall, Goepel, and Co., claims damages against the Government of the United States of America for such taking and

ion of seal-skins, spears, and ship's papers, based upon the value skins actually taken, and for 1,178 skins, the balance of an esti- catch of 1,800 seal-skins by the said schooner for full season of a Behring Sea; also for the value of the said spears, and for the f obtaining a new set of ship's papers from the Government of a, and for legal and other expenses in connection with the pre- on and submission of this claim.

hat hereto annexed, marked "B," is a statement in detail of laim.

That upon the sailing of the said schooner in May last, advances nade to the hunters based upon a full season's catch, and said rs will, upon payment of such claim, be entitled to and will receive are thereof.

I, Richard Hall, make this solemn declaration, conscientiously ing the same to be true, and by virtue of "The Act respecting Judicial Oaths."

lared by the said Richard Hall at the city of Victoria, British bia, the 14th day of October, A. D. 1889.

(Signed) RICHARD HALL.

ore me,

(Signed) A. L. BELYEA,

ary Public by Royal authority in and for the Province of British Columbia, residing and practicing at Victoria aforesaid.

(B.)

l statement of claim by owners of British schooner "Juanita" against the Government of the United States of America.

l-skins taken from "Juanita" in Behring Sea by United States er "Richard Rush," at 8 dollars per skin	$4,960.00
al-skins, balance of an estimated catch of 1,800 seal-skins by the nita" for the full season of 1889 in Behring Sea, at 8 dollars per skin.	9,424.00
s, at 3 dollars	36.00
obtaining new ship's papers	25.00
nd other expenses incidental to the seizure	250.00
otal	14,695.00

(Signed) RICHARD HALL.

is the Exhibit (B) referred to in the declaration of Richard Hall annexed, made before me the 14th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 13.

thfinder."—Seized by United States steam-ship "Richard Rush," July 29, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
seized, and estimated balance of catch at 12 dol. 25 c. a skin.	$25,725.00	Affidavit of William Munsie, &c.
., seized	765.00	Do.
ers	25.00	Do.
penses	250.00	Do.
owner, with interest at 7 per cent. to payment.	26,765.00	

AFFIDAVIT OF WILLIAM MUNSIE.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, William Munsie, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, merchant, do solemnly and sincerely declare as follows:

1. I am a member of the firm of Carne and Munsie, merchant, of the said city of Victoria, the said firm being composed of Frederic Carne, Junior, of the same place, and myself.

2. The said Frederic Carne, Junior, is the registered owner of sixteen shares of the hereinafter-mentioned schooner "Pathfinder," of the port of Victoria; I am the registered owner of sixteen shares of the said schooner, and the said firm are registered owners of the remaining thirty-two shares. I am the managing owner of the said schooner.

3. The said schooner "Pathfinder" cleared at the Custom-house, Victoria, aforesaid, on the 17th day of April, A. D. 1889, for a hunting and sealing voyage in the North Pacific Ocean and Behring Sea, and sailed on the 18th day of April, A. D. 1889.

4. On the said voyage William O'Leary was master, and Andrew Davidson was mate. The crew consisted of a cook, twelve seamen, and five hunters.

5. On the 24th July last I received from the said "Pathfinder" by the schooner "Wanderer" from the north, 558 seal-skins which had been caught by the "Pathfinder" in the Pacific Ocean on her way northward to Behring Sea.

6. On the 30th August last the said "Pathfinder" returned to Victoria aforesaid, having on board an officer from the United States steamer "Richard Rush." Captain O'Leary reported to me that on the 29th day of July last the said United States steamer "Richard Rush" hailed him in Behring Sea about 57° 24′ north latitude and 171° 55′ west longitude, and ordered him to heave-to. The "Pathfinder" was immediately boarded by officers from the said "Richard Rush."

41 The officer in charge seized the "Pathfinder" and took away all the seal-skins on board (854), eight shot-guns, four rifles, six boxes of ammunition, a quantity of salt, and the ship's papers. He left an officer on board in charge, and ordered Captain O'Leary to take the "Pathfinder" to port of Sitka, in the Territory of Alaska.

7. At the time of such seizure the sealing season in Behring Sea was less than half gone, and I verily believe that had the "Pathfinder" remained unmolested in Behring Sea until the close of the season she would have caught not less than 2,100 seal-skins. I have this on information given me by the said Captain O'Leary and by Captain Baker, of the schooner "Viva," also owned by us and managed by myself, who was in the Behring Sea the whole season of 1889. The hunting equipment of the said two schooners was about equal.

A few days before the "Pathfinder" was seized as aforesaid, she was spoken by the "Viva." At that time the "Pathfinder" had 449 seal-skins on board, and the "Viva" 420. The "Viva" caught in the full season in Behring Sea 2,182 seal-skins, and for the year a total of 3,641 skins.

8. In the year 1888, and this year 1889, the said firm of Carne and Munsie shipped their seal-skins to London on their own account, and hereto annexed, marked (B), is a copy of the account-sales of part of the catch of the "Pathfinder" for the year 1888; and hereto annexed, marked (C), is a copy of the account-sales of the said "Pathfinder's" catch of seals in the spring of 1889, before going north. The seal-skins

per first account-sales (1888) netted the said firm at Victoria, British Columbia, about 12 dol. 25 c. per skin, and per the second account-sales, they netted the said firm about 10 dol. 30 c. per skin at Victoria, British Columbia. The catch of 1889 was a spring catch, which always contains a larger percentage of small skins than the summer and fall catches, and hence realize less per skin on an even market.

9. I, for myself, the said Frederic Carne, Junior, and for the said firm of Carne and Munsie, claim damages against the Government of the United States of America for the seizure of the said "Pathfinder," and for the taking and detention of the said 854 seal-skins, and for 1,246, the balance of the estimated catch of 2,100 in Behring Sea for a full season; also for the guns, rifles, ammunition, salt, and ship's papers seized as aforesaid; and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor, and interest thereon at 7 per cent. per annum.

10. Hereto annexed, marked (A), is a statement in detail of such claim.

11. I am in constant communication with my agents in London, England, and from information I have received from such agents, I verily believe that the price of summer and fall catches of seal-skins from North Pacific Ocean and Behring Sea for 1889 will be fully up to the price obtained for the "Pathfinder's" catch, sold as per account-sales B), hereto annexed, namely, 12 dol. 25 c. per skin net, at Victoria, British Columbia.

12. That I have paid in full the crew and hunters of the "Pathfinder" for the season of 1889, including the sums due to them in respect of the 854 seal-skins seized as aforesaid.

And I, William Munsie, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

Declared by the said William Munsie, at Victoria, the 18th day of October, A. D. 1889, before me.

(Signed) WILLIAM MUNSIE.

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal authority in and for the Province of British Columbia, residing and practicing at Victoria, British Columbia.

(A.)

Statement of claim by owners of schooner "Pathfinder" against the Government of the United States of America, for seizure in Behring Sea on the 29th July, 1889.

854 seal-skins (seized).
1,246 skins, balance of estimated catch by "Pathfinder" for full season 1889 in Behring's Sea.

1,100 skins, at 12 dol. 25 c. each	$25,725.00
8 shot guns, at 25 dollars each	440.00
4 rifles, at 25 dollars each	100.00
2 boxes ammunition, at say	200.00
Salt	25.00
Cost of obtaining new ship's papers	25.00
Legal and other expenses arising out of, and incidental to, such seizure	250.00
Total	26,765.00

And interest thereon at 7 per cent. per annum until paid.

(Signed) WILLIAM MUNSIE.

42 This is the statement of claim referred to in the declaration of William Munsie, as marked (A), hereunto annexed, and made the 18th day of October, 1889.

Before me, (Signed) A. L. BELYEA, *Notary Public.*

United States Revenue Steamer "Rush," Lat. 57° 24′ N., Long. 171° 55′ W., Behring Sea, July 29, 1889.

SIR: You are hereby appointed a special officer, and are directed to proceed on board the schooner "Pathfinder," of Victoria, British Columbia, this day seized for violation of section 1956, Revised Statutes of the United States, and assume charge of said vessel, her officers, and crew, twenty white men all told.

Excepting the navigation of the vessel, which is reserved to Captain O'Leary, and which you will not interfere with, unless you become convinced he is proceeding to some other port than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Captain O'Leary to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States District Attorney for the District of Alaska, and deliver to him the letter so addressed, the schooner, her outfit, and the persons of Captain O'Leary, mate, A. Davidson, and set the crew at liberty. After being relieved of the property and persons intrusted to your care, you will await at Sitka the arrival of the "Rush."

Respectfully, (Signed) L. C. SHEPARD,
Captain, United States Revenue Marine.
WILLIAM MUNSIE.

T. W. HUNTER, *Special Officer.*

ACCOUNT-SALES.

LONDON, *July 14, 1889.* (Prompt, July 18, 1889.)

Sold by order and for account of Messrs. Carne & Munsie, a. p. sale.

Per "Pathfinder."

C. and M.
P. 6 and p. 11 casks salted fur-seal skins.

Lot.		£	s.	d.
10.	67 small fur-seal skins, at 50*s.* each	167	10	0
11.	101 large pups ditto, at 53*s.* each	267	13	0
12.	74 middling ditto, at 52*s.* each	192	8	0
13.	97 small ditto, at 44*s.* each	213	8	0
14.	35 "ex" ditto, at 27*s.* each	47	5	0
15.	4 middling ditto, at 31*s.* each	6	4	0
	2 small ditto, at 31*s.* each	3	2	0
380		897	10	0
	Discount, 2½ per cent	22	8	9
		875	1	3

me 24:	£	s.	d.	£	s.	d.
Landing charges, telegrams, &c	1	3	9			
Housing and striking, 380 at 3s. 9d. per 100	0	14	3			
Piling away to sorter, 380, at 1s. 10½d. per 100	0	7	1			
Weighing for average, 100, at 2s. 6d. per 100	0	2	6			
Cessing for assortment, 380, at 2s. 6d. per 120	0	7	11			
Counting at delivery, 380, at 1s. 3d. per 120	0	4	10			
Rent on 380, at 6 p. 120 wk., 14 wks	0	6	4			
Showing for public sale, lotting, &c	0	11	3			
	3	17	1			
Allowance, 20 per cent. on £2 13s. 4d	0	10	8			
	3	6	5			
Assorting for sale, 380, at 5s. 2½d. per 100	0	19	10			
Public sale charges, advertising, &c., 6 lots, at 3s. 6d.	1	1	0			
Fire insurance, ¼ per cent	2	4	11			
Commission, 2½ per cent	22	8	9			
				30	0	11
				845	0	4

(Signed) CULVERWELL, BROOKS & Co.
WILLIAM MUNSIE.

This is the exhibit marked "C" referred to in the declaration of William Munsie, made before me the 18th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

3 *Per "Pathfinder."*

P. 10 casks salted fur-seal skins.

ot.		£.	s.	d.
.	13 small fur-seal skins, at 49s. each	31	17	0
.	110 large pups ditto, at 58s. each	319	0	0
.	107 middling ditto, at 58s. each	310	6	0
.	59 small ditto, at 51s. each	150	9	0
.	9 "ex." ditto, at 27s. each	12	3	0
	2 middling ditto, at 27s. each	2	14	0
.	81 large pups ditto, at 52s. each	210	12	0
.	82 large pups ditto, at 53s. each	217	6	0
).	71 middling ditto, at 52s. each	184	12	0
).	31 small ditto, at 43s. each	66	13	0
565		1,505	12	0
	Discount, 5½ per cent	37	12	10
		1,467	19	0

ovember 1:	£.	s.	d.			
Landing charges, telegrams, &c	0	17	0			
Housing and striking, 565, at 3s. 9d. per 100	1	1	2			
Piling away to sorter, 565, at 1s. 10½d. per 100	0	10	0			
Weighing for average, 150, at 2s. 6d. per 100	0	3	9			
Cessing for assortment, 565, at 2s. 6d. per 120	0	11	9			
Counting at delivery, 565, at 1s. 3d. per 100	0	5	11			
Rent on 565, at 6 p. 120 p. wk., 5 wks	0	11	9			
Showing for public sale, lotting, &c	0	16	11			
	4	18	10			
Allowance, 20 per cent. on 4l. 1s. 10d	0	16	4			
	4	2	6			
Assorting for sale, 565, at 5s. 2½d. per 100	1	9	4			
Public sale charges, advertising, &c., 9 lots, at 3s. 6d.	1	11	6			
For insurance	1	17	8			
Commission, 5 per cent.	75	5	8			
				84	6	8
				1,383	12	6

(Signed) WILLIAM MUNSIE.

DECEMBER 4, *1888.*

This is the exhibit marked "B" referred to in the declaration of William Munsie, made before me the 18th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

Messrs. CARNE & MUNSIE:

We have this day sold for your account at public auction the undermentioned goods in conformity with the sale conditions.

Prompt, the 4th December, 1888. Discount, 2½ per cent.

Ex "Pathfinder."

P. 10 casks.

Lot.		Each.
1.	13 small salted fur-seal skins, at	49s
2.	110 large pups ditto	58s
3.	107 middling ditto	58s
4.	59 small ditto	51s
5.	9 ex. small ditto	27s
	2 middling	27s
6.	81 large pups ditto	52s
7.	82 ditto, ditto	52s
8.	71 middling ditto	52s
9.	29 small ditto	43s
	2 ditto, ditto	43s

Ex "Viva."

V. 32 casks.

Lot.		Each.
10.	3 wigs fur-seal skins, at	70s
	10 middling ditto	70s
11.	47 small ditto	58s
12, 13.	200 large pups ditto	55s
14, 17.	372 ditto, ditto	56s
18, 21.	400 middling ditto	54s
22, 23.	200 ditto, ditto	55s
24.	65 ditto, ditto	56s
25, 28.	400 small ditto	46s
29.	100 ditto, ditto	47s
30.	55 ditto, ditto	46s
31.	119 ex. small ditto	32s
32.	39 large ditto	49s
33.	26 middling ditto	41s
34.	16 small ditto	32s
35.	16 grey ditto	15s

Total, 6,580*l.* 12*s.* 4*d.*

(Signed) CULVERWELL, BROOKS & Co.,
47 St. Mary Axe.

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44 RESULT OF SALES OF SALTED FUR-SEAL SKINS.

CULVERWELL, BROOKS & Co.,
27 St. Mary Axe, London, February 2, 1889.

17,133 North-west Coast..
5,576 Lobos Island..... } offered and sold.

There was again a good demand for this important article at the sales held on the 1st instant, and all classes sold readily at the advanced prices established at the November auctions. The skins were chiefly purchased by the English, French, and American buyers. There is every indication of prices being maintained.

Prices.

	North-west Coast.	Lobos Islands.
	s. *s.*	*s.* *s.*
Middlings and smalls	30 to 40	.....
Smalls	29 46	23 to 41
Large pups	30 53	29 36
Middling ditto	25 55	27 33
Small ditto	22 41	19 26
Ex. small ditto	19 38	16 21
Ex. ex. small ditto	15 24	.....

With Culverwell, Brooks & Co.'s compliments.

Messrs. CARNE & MUNSIE.

SPECIAL RESULT OF SALES OF SALTED FUR-SEAL SKINS, NOVEMBER 9, 1888.

CULVERWELL, BROOKS & CO.,
27 St. Mary Axe, London, November 9, 1888.

100,000 Alaska .....
9,003 North-west Coast.. } offered and sold.
13,333 Lobos Island.....

There was a large attendance of buyers at these sales, and throughout active competition prevailed, and on all classes an important advance was established. In the Alaska collection the smaller sizes realized relatively the highest prices. We quote middlings, smalls, and large pups, 28 per cent. to 26 per cent. dearer, and middlings and smalls, middling pups, small pups, and extra small pups, 43 per cent. to 48 per cent. higher.

The 9,003 north-west coast contained one fine parcel which realized extreme rates, and on other parcels an average advance of 20 per cent. to 30 per cent. was established.

The 13,333 Lobos Islands skins contained one good parcel of 2,000 skins, which realized 40 per cent. higher rates. The other assortments were not of a desirable description, but 20 per cent. higher rates were paid.

The few Alaska skins dressed in their natural state by a well-known English firm, sold as follows:

Middlings and smalls, 130*s.* each; small, 118*s.*, 119*s.*; large pups, 93*s.*, 94*s.*; middling pups, 78*s.*; small pups, 66*s.*, 67*s.*; extra small pups, 63*s.* each. These prices include the cost of dressing.

45 *Prices.*

	Alaska.	North-west Coast.	Lobos Islands.
	s. *s.*	*s.* *s.*	*s.* *d.* *s.* *d.*
Wigs	.....	23 to 28	29 0 to 30 0
Middlings and smalls	68 to 120	33 45	.....
Middlings	88	29 45	27 0 to 30 0
Smalls	68 116	29 51	
Large pups	62 92	26 54	24 0 37 0
Middling ditto	50 81	21 51	21 0 37 0
Small ditto	42 66	19 39	12 0 31 0
Ex. small ditto	50 62	14 29	8 0 20 0
Ex. ex. small ditto	.....	11 26	.....
Grey ditto	9 to 26	.....	1 6 to 8 6

With Culverwell, Brooks & Co.'s compliments.

To Messrs. CARNE & MUNSIE,
Odd Fellows' Buildings, Douglas Street,
Victoria, British Columbia.

No. 14.

"Triumph."—Ordered out of Behring Sea by United States steam-ship "Richard Rush," July 11, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Balance of estimated catch of 2,500, at 8 dollars a skin.	$19,424.00	Affidavits of Edgar Crow Baker and Daniel McLean.
Legal and other expenses	250.00	Do.
Claim by owner, with interest at 7 per cent. to date of payment.	19,674.00	

DECLARATION OF EDGAR CROW BAKER.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Edgar Crow Baker, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, retired Navigating Lieutenant, Royal Navy, but at present (among various other businesses) following the occupation or calling of a Real Estate and Financial Broker in the city aforesaid, and the duly authorized managing owner of the British sealing-schooner "Triumph," do solemnly and sincerely declare as follows:

1. That said schooner was built in April 1887 in Shelburne, Nova Scotia, purchased by myself and others, as per original register, and brought to the port of Victoria by one Daniel McLean, master and part owner, for the express purpose of engaging in the business of seal-hunting in the North Pacific Ocean and Behring Sea, and elsewhere.

2. That said vessel was duly registered at the port of Victoria, British Columbia, by the usual method of transfer of registry, on the 2nd December, 1887, with the port number 11, her registered tonnage being 87.51, and her official number, 90,681.

3. That said vessel arrived at the port of Victoria on or about the 25th April, 1888, and after undergoing usual refit and outfit for her sealing voyage, cleared from the port of Victoria on or about the 5th May, 1888, for Behring Sea, and prosecuted that branch of the deep-sea fisheries known as seal-hunting, in said arm of the North Pacific Ocean, with a crew composed principally of Indian hunters, and returned to Victoria on or about the 12th September of said year with a catch of 2,491 seal-skins, and the master reported no interference or molestation on the part of the United States revenue cruisers.

46 4. That said catch was sold in the market at Victoria for the price or sum of 14,219 dol. 75 c., and after reimbursing all expense of outfit for the hunting period, payment of hunters and crew, yielded a very handsome profit to the owners of said vessel for their season's venture.

5. That the price paid for skins during the season immediately above referred to was 6 dollars only in Victoria, though 75 dol. 25 c. and 65 dol. 50 c. was obtained at the usual fall sales in London, Great Britain.

6. That the registered owners of said vessel at that time were: Edgar Crow Baker, 21 shares; Walter E. Blackett, 21 shares; Daniel McLean, 22 shares, participating equally in the profits, and the vessel commanded by same master.

7. That in January of the present year (1889), in order to make the vessel as staunch and seaworthy as it was possible to make a vessel,

not then two years old, she was docked in graving-dock at Esquimalt, and coppered to 9 feet forward and 11 feet aft, at an expense to the owners of 1,234 dol. 50 c., thereby enhancing the value of said vessel from 8,250 dollars to very nearly 9,500 dollars.

8. That the primary object in sparing no expense to efficiently equip said vessel was that she might "keep the sea" in any weather, and prolong her seal-hunting voyage until the latest moment of the season, and return to her home-port in the following season with a catch in excess of that already quoted.

9. That the declarant sent said vessel down to San Francisco on the 24th March of the present year, in order to procure the best white hunters, sealing boats, and sealing outfit obtainable, and disbursed for same and provisions 2,966 dol. 24 c.

10. That said vessel left San Francisco on or about the 12th April of the present year with a crew consisting of master, mate, carpenter, gunner, cook, and steward, eight hunters, seventeen able and ordinary seamen, and two apprentices, in all thirty-two in number, as per certificate of shipping master of said port.

11. That said vessel entered and cleared from the port of Victoria on the 25th day of April last, and sent by the declarant on a sealing and hunting voyage in the North Pacific Ocean and Behring Sea at a further cost to the owners of 2,975 dol. 19 c. for advances to hunters and crew, provisions, sails, equipments and apparel, marine insurance, and necessaries.

12. That the total amount of cash at risk in said venture, from commencement of voyage to finish on the 28th July, was 15,425 dol. 43 c., irrespective of the lay out or wages of master.

13. That the said schooner entered Behring Sea on or about the 4th July, and having previously transshipped her outside, or coast catch, was hove-to on the 11th July, and boarded by Lieutenant Tuttle, of the United States revenue cutter "Richard Rush" (as per sworn-to testimony of the master, made on arriving in Victoria, dated the 8th August), who searched the vessel, examined and returned ship's papers, and ordered the schooner out of Behring Sea, threatening confiscation of vessel and catch if caught in the act of killing seals, or with skins on board after having been warned.

14. That by reason of the threats and menaces of the said United States cutter, the master was prevented from further prosecuting his legitimate business in said sea, and not wishing to incur the responsibility of threatened capture of his valuable vessel, returned to Victoria on the 28th July, with only seventy-two skins on board, and which were on board at the time of search, though undiscovered by the boarding officer, at least, so I am informed and verily believe.

15. That, from the number of skins taken by the "Triumph" last year, with vessel partially equipped only, and with less experienced hunters, I conscientiously believe that the said schooner in a full season, unmolested and free from fear of molestation, would have taken in the neighborhood of 2,500 skins.

16. That the market value of seal-skins at the port of Victoria on or about the 1st October instant, when in the usual course of events heretofore the "Triumph" would have arrived after a complete season's voyage, as hereinbefore mentioned, was 8 dollars per skin.

17. That the declarant, on behalf of himself and co-owners, claims damages against the Government of the United States of America for the unlawful and unwarrantable interference, molestation, threat, and menace of its said revenue cutter, whereby a heavy loss is incurred by

the owners and hunters of said schooner "Triumph," amounting to the value of the difference between the skins actually taken and estimated catch, viz., 2,428 skins (2,500, less 72) at 8 dollars per skin, or the sum of 19,424 dollars, and 250 dollars for legal and other expenses in connection with the preparation and submission of this claim.

18. That hereto annexed, marked (A), is a statement in detail of such claim, and of the persons entitled to share therein.

19. That upon the sailing of the said schooner in April and May last at San Francisco and Victoria, respectively, advances were made to the hunters based upon a full season's catch, and said hunters will, upon payment of said claim, be entitled to, and will receive their share thereof.

And I, Edgar Crow Baker, make this solemn declaration, conscientiously believing the same to be true, just, and equitable, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) EDGAR CROW BAKER,
Managing Owner.

47 Declared by the said Edgar Crow Baker, at the city of Victoria, British Columbia, the day of November, A. D. 1889.

Before me,

(Signed) D. R. HARRIS,
A Notary Public by Royal Authority in and for the Province of British Columbia, residing and practicing at Victoria aforesaid.

Detailed statement of claim by owners of British schooner "Triumph" against the Government of the United States of America.

2,428 seal-skins, balance of an estimated catch of 2,500 seal-skins by the schooner "Triumph" for the full season of 1889 in Behring Sea, at 8 dollars per skin	$19,424
Legal and other expenses incidental to preparation and submission of claims	250
Total	19,674

Owners on October 1, 1889.

	Shares.
Edgar Crow Baker, managing owner	21
Daniel McLean, master mariner	22
Rosine Gibson, Bauie, Ontario	11
John C. Blackett, Victoria, British Columbia	10
Total	64

N. B.—E. Crow Baker, representing D. McLean's shares by full power of attorney, and as mortgagee in possession, J. C. Blackett, by power of attorney, and Rosina Gibson's by consent of attorney.

(Signed) EDGAR CROW BAKER,
Managing Owner.

The schedule marked (A) referred to in statement, of which this forms part.

(Signed) D. R. HARRIS,
Notary Public for the Province of British Columbia.

To all to whom these presents shall come be it known and made manifest that I, Alexander Rowland Milne, a Surveyor in Her Majesty's Customs for the port of Victoria, British Columbia, in the Dominion of Canada, duly appointed as such, residing and officiating in said capacity in the city of Victoria, in the province aforesaid, do hereby certify that the paper written hereto annexed, dated the 8th August, 1889, signed and sworn to before George Morrison, J. P., on said day by one Daniel McLean, master of the British schooner "Triumph," registered at the port aforesaid and engaged in the sealing business, is, as it purports to be, a full, true, and correct copy of the original thereof in every respect. I do further certify that the original document was forwarded by the Collector of Customs of this port to the Department of Marine and Fisheries at Ottawa on or about the date therein named, and that I have full confidence in the truth of the statements made by said master embodied in said affidavit.

In testimony whereof I have hereunto set my hand and seal of office at the city of Victoria, British Columbia, this 4th day of November, 1889.

(Signed) A. R. MILNE, *Surveyor, &c.*

DEPOSITION OF DANIEL M'LEAN.

In the matter of search, &c., of the sealing-schooner "Triumph" by the United States revenue cutter "Richard Rush" in Behring Sea,

I, Daniel McLean, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, being duly sworn, depose as follows:

That I am master and part owner of the British schooner "Triumph," registered at the port of Victoria, British Columbia, that in conformity to the laws of the Dominion of Canada, I regularly cleared the said schooner "Triumph" for a voyage in the North Pacific Ocean and Behring Sea, and that in pursuance of my legitimate business did enter the said Behring Sea on the 4th day of July, 1889, and did in a peaceful manner proceed on my voyage, and being in latitude 50° 5′ 48 north, longitude 171° 23′ west, on the 11th day of July, 1880, at the hour of 8:30 A. M., was hailed by the Commander of the United States revenue cutter "Rush," the said revenue cutter being a vessel belonging to the Government of the United States and regularly commissioned by the same; a boat having been lowered by the officer and crew, I was boarded by the same, the officer in charge of the boat being one Lieutenant Tuttle, who demanded the official papers of my vessel, and after reading the same, proceeded to search my vessel for seals, and finding no evidence of the same informed me that orders had been issued by the Secretary of the Treasury of the United States, under the Proclamation of the President, instructing the Commanding officer of the said revenue cutter "Rush" to seize all vessels found sealing in Behring Sea; he also told me that should he again board me and find seal-skins on board that he would seize and confiscate the vessel and catch; he furthermore informed me that he had already seized the British schooner "Black Diamond," of Victoria, British Columbia, and that she had been sent to Sitka, and that, therefore, by reason of his threats and menaces, I was caused to forego my legitimate and peaceful voyage on the high seas, and return to the port of my departure, causing serious pecuniary loss to myself, crew, and owners, for which a claim will be formulated and forwarded in due course.

And I make this solemn affidavit, conscientiously believing the same to be true, and by virtue of "The Oaths Ordinance, 1869."

(Signed) DANIEL MCLEAN,
Master, Schooner "Triumph."

Sworn before me this 8th August, 1889, at Victoria, British Columbia.

(Signed) GEO. MORRISON, J. P.,
A Justice of the Peace for the Province of British Columbia.

I do hereby certify to the correctness of this statement as verbally expressed to me also by said Daniel McLean.

(Signed) EDGAR CROW BAKER,
Notary Public.

No. 15.

"Black Diamond."—Seized by United States steam-ship "Richard Rush," July 11, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
76 skins seized, at 8 dollars	$608.00	Affidavits of Morris Moss and Alexander Gault.
2,024 skins, balance of estimated catch, at 8 dollars.	16,192.00	Do.
Rifles, spears, &c., seized	110.00	Do.
New ship's papers	25.00	Do.
Legal and other expenses	250.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	17,185.00	

DECLARATION OF MORRIS MOSS.

CANADA, *Province of British Columbia, city of Victoria.*

I, Morris Moss, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, fur dealer and ship-owner, do solemnly and sincerely declare as follows:

1. I am a British subject by birth, and the duly registered owner of the schooner "Black Diamond," of the port of Victoria, aforesaid.

2. On the 12th day of February, 1889, the said schooner was cleared at the custom-house at said city of Victoria for a fishing and hunting voyage to the North Pacific Ocean and Behring Sea.

3. On the 3rd day of August, 1889, the said "Black Diamond" returned to Victoria aforesaid, and hereto annexed, marked (X), is the statutory declaration of Alexander Gault, the mate of the said schooner on said voyage, of the cause and manner of the "Black Diamond's" return to Victoria from such voyage, which said statement I verily believe is true.

49 4. The value of the seal-skins taken from the "Black Diamond" as set out in said Alexander Gault's statement, was, on or about the 1st day of October (when in her course the vessel would have delivered her cargo of skins at Victoria aforesaid), 8 dollars per skin. The salt so taken as aforesaid was worth 5 dollars; the Indian spears 4 dollars each, and the said rifle was worth 25 dollars.

5. From the actual catch of seals made in said sea during said season by other sailing-vessels, I verily believe that had the said "Black Diamond" not been seized and her hunting voyage broken up as set

out in said statement of Alexander Gault, the hunters on said schooner would have captured at least 2,100 seal-skins in said Behring Sea during the season of 1889.

6. I, for myself and the crew and hunters of the said "Black Diamond," claimed damages against the Government of the United States of America for the seizure of the said "Black Diamond," and for the taking and detention of said seventy-six seal-skins, and for 2,024 seal-skins the balance of the estimated catch of 2,100 in Behring Sea for the full season of 1889, also for the salt, rifle, Indian spears, and ship's papers taken as aforesaid, and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor and interest thereof at 7 per cent. per annum until paid.

7. Hereto annexed, marked (A), is a statement in detail of such claim for damages.

And I, Morris Moss, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Voluntary and Extra-Judicial Oaths."

(Signed) MORRIS MOSS.

Declared by the said Morris Moss, at the city of Victoria, the 19th day of November, A. D. 1889.

Before me, (Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

(A.)

Statement of claim by owner of schooner "Black Diamond" against the Government of the United States of America for seizure in Behring Sea on July 11, 1889.

76 seal-skins (seized).
2,024 seal-skins, balance of estimated catch by "Black Diamond" for full season of 1889 in Behring Sea.

2,100 seal-skins, at 8 dollars	$16,800
1 rifle, at	25
20 spears, at 4 dollars each	80
2 sacks salt, at 2 dol. 50 c. each	5
Cost of obtaining new ship's papers	25
Legal and other expenses arising out of, and incidental to, such seizure	250
Total	17,185

And interest thereon at 7 per cent. per annum until paid.

(Signed) MORRIS MOSS.

This is the statement referred to as marked (A) in the declaration of Morris Moss, taken before me the 19th November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

(X.)

In the matter of the seizure of the sealing schooner "Black Diamond," by the United States revenue cutter "Richard Rush," on the 11th day of July, A. D. 1889,

I, Alexander Gault, of the city of Victoria, mate, do solemnly and sincerely declare that—

1. I was at the time of the occurrences hereinafter mentioned, employed as mate of the sealing schooner "Black Diamond," of the port of Victoria, British Columbia.

2. On the 11th day of July last, whilst on board the said schooner, she then being on a sealing expedition, and in latitude 56° 22′ north, and longitude 170° 25′ west, and at a distance of about 35 miles from shore, we were overhauled by the "Richard Rush," the United States revenue cutter, which latter vessel having hailed us, and shouted a command we were unable to understand, steamed across our steamer's bows, compelling us to come-to. A boat was then lowered from the cutter, and Lieutenant Tuttle, with five other men came aboard the schooner. The captain of our schooner asked Lieutenant Tuttle what he wanted, and he replied he wished to see our papers. The captain then took him down into his cabin, and in my presence showed him the ship's papers.

50 Lieutenant Tuttle then demanded that they should be handed to him, but our captain refused to give them up, and locked them in his locker. Lieutenant Tuttle then ordered his men to bring up the seal-skins. At this time there were seventy-six salted and fifty-five unsalted seal-skins on board. The Lieutenant then ordered the salted skins to be taken on board the "Richard Rush." This was done by the cutter's boat, two bags of salt and a rifle being also taken from the schooner to the cutter.

Lieutenant Tuttle told our captain that if he did not give up the papers he should take them by force, and our captain still refusing, the Lieutenant hailed the cutter, and a boat brought off the Master-at-Arms, who came on board our schooner. Lieutenant Tuttle asked our captain for his keys, but not being able to obtain them, ordered the Master-at-Arms to force the locker. The Master-at-Arms then unscrewed the hinges of the locker, and taking out the papers, handed the same to Lieutenant Tuttle. Lieutenant Tuttle then went back to the "Richard Rush," but returned again, bringing with him one whose name I have since heard to be John Hawkinsen.

The Lieutenant then ordered certain Indian sealing spears belonging to the schooner to the number of twenty to be placed in his boat, which was accordingly done by the cutter's men. Our captain asked him for a receipt for the skins, ship's papers, and other goods he had taken; this he refused to give. He then ordered our captain to take the schooner to Sitka, but our captain told him that if he wanted the schooner to go there he would have to put a crew on board to take her there.

Lieutenant Tuttle then gave Hawkinsen some orders and some papers addressed to the United States authorities at Sitka, and leaving Hawkinsen on board the schooner, and taking the spears with him, returned to the cutter, which shortly afterwards steamed away, taking the ship's papers, the skins, and other goods with her.

We set sail for Ounalaska, where the captain hoped to fall in with a British man-of-war, and arrived at that place on the 15th day of July. There being no man-of-war there, and the Indians having become very mutinous, and threatening to throw us overboard if they thought we were going to Sitka, we set sail for the port of Victoria, reaching the latter place on the 3rd day of August, 1889, at about the hour of 7 P. M. The man Hawkinsen, during the voyage, did not attempt to give any directions or suggestions as to the course to be taken by the schooner, and on arrival at Victoria was placed on shore by one of the schooner's boats.

And I make this declaration conscientiously believing the same to be true, and by virtue of "The Oaths Ordinance, 1889."

(Signed) ALEXANDER GAULT.

Declared before me at the city of Victoria, this 8th day of August, 1889.

(Signed) ERNEST V. BODWELL,
A Notary Public for the Province of British Columbia.

This is the statutory declaration of Alexander Gault referred to as marked (X) in the declaration of Morris Moss made before me the 19th day of November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 16.

"Lily."—Seized by United States steam-ship "Richard Rush," August 6, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
333 skins seized, at 8 dollars	$2,664.00	Affidavits of Morris Moss and John Reilly.
Balance of catch, 1,767, at 8 dollars	14,136.00	Do.
Spears and salt seized	101.00	Do.
New ship's papers	25.00	Do.
Legal and other expenses	250.00	Do.
Claim by owner, with interest at 7 per cent. to date of payment.	17,176.00	

51 DECLARATION OF MORRIS MOSS.

CANADA, *Province of British Columbia, city of Victoria.*

I, Morris Moss, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, fur dealer and ship-owner, do solemnly and sincerely declare as follows:

1. I am a British subject by birth, and the duly registered owner of the schooner "Lily" of the port of Victoria aforesaid.

2. On the 20th day of May, A. D. 1839, the said schooner "Lily" cleared at the custom-house, Victoria aforesaid, for a fishing and hunting voyage in the North Pacific Ocean and Behring Sea.

3. On the 1st day of September, A. D. 1889, the said schooner "Lily" returned to the said port of Victoria, and hereto annexed, marked (X), is the statutory declaration of John Reilly, the master of the said schooner "Lily" on said voyage, setting forth the cause and manner of the return to Victoria of said schooner from such voyage, which said statement I verily believe to be true.

4. The value of the seal-skins taken from the said "Lily," as set out in said John Reilly's statement, was, on or about the 1st day of October (when in due course the said vessel would have delivered her cargo of skins at Victoria aforesaid), 8 dollars per skin. The salt so taken as aforesaid was worth 5 dollars, and the Indian spears 4 dollars each.

5. From the actual catch of seals made in said sea during said season by other vessels, I verily believe that had the said "Lily" not been seized, and her hunting voyage broken up, as set out in said statement of John Reilly, the said hunters on said schooner "Lily" would have captured at least 2,100 seal-skins in Behring Sea during the season of 1889.

6. I for myself and the crew and hunters of the said "Lily" claim damages against the Government of the United States of America for the seizure of the said "Lily," and for the taking and detention of said 333 seal-skins, and for 1,767 seal-skins, the balance of the estimated catch of 2,100 in Behring Sea for the full season of 1889; also for the salt and Indian *spears and ship's* papers taken as aforesaid, and for

legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor and interest thereon, at the rate of 7 per cent. per annum until paid.

7. Hereto annexed marked (A), is a statement in detail of such claim for damages.

And I, Morris Moss, make this solemn declaration conscientiously believing the same to be true, and by virtue of "The Act respecting Voluntary and Extra-Judicial Oaths."

(Signed) MORRIS MOSS.

Declared by the said Morris Moss at the city of Victoria, the 19th day of November, A. D. 1889.

Before me, (Signed) A. L. BELYEA,
Notary Public by Royal Authority in and for the Province of British Columbia.

Statement of claim by owner of schooner "Lily" against the Government of the United States of America for seizure in Behring Sea on the 6th August, A. D. 1889.

333 seal-skins (seized).
1,767 seal-skins, balance of estimated catch by "Lily" for full season of 1889 in Behring Sea.

2,100 seal-skins, at 8 dollars	$16,800
24 Indian spears, at 4 dollars	96
2 sacks salt, at 2 dol. 50 c	5
Cost of obtaining new ship's papers	25
Legal and other expenses arising out of, and incidental to, such seizure	250
Total	17,176

And interest thereon at 7 per cent. per annum until paid.

(Signed) MORRIS MOSS.

This is the statement of claim referred to as marked (A) in the declaration of Morris Moss, made before me the 19th November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

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52 In the matter of the seizure of the sealing schooner "Lily" by the United States revenue cutter "Richard Rush," on the 6th day of August, A. D. 1889.

I, John Reilly, of the city of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that—

1. I am a master mariner, and was at the time of the occurrences hereinafter mentioned, and still am master of the schooner "Lily," of the port of Victoria, British Columbia.

2. On the 6th day of August, A. D. 1889, whilst I was on board and in command of the said schooner "Lily," and she being then on a sealing expedition, and being in latitude 55° 29′ north, and longitude 166° 15′ west, and at a distance of about 66 miles from the nearest land, the United States revenue cutter "Richard Rush" overhauled the said schooner.

3. I was first boarded by the First Lieutenant, who was armed, and who asked me how many skins I had on board. I replied that he should find out himself, and said that if he wanted to see the schooner's papers I would show them to him and would render him assistance should he want to search the schooner for contraband goods, but I would not acknowledge his right to seize me for sealing on the high seas.

4. The First Lieutenant then returned to the cutter, and in a short me returned accompanied by another boat of the cutter which was in arge of the Second Lieutenant.

5. They both came on board, and the First Lieutenant demanded of me e surrender of the schooner, and asking, at the same time, for the hooner's papers. This I at first declined to do, and the First Lieutenit said unless I gave the schooner's papers to him at once he would ke them by force. I then gave him the schooner's papers, consisting registry, coasting license, and clearance.

6. The First Lieutenant then ordered both boats' crew to search the hooner, and they took from my schooner 333 seal-skins, all in good der.

7. He then asked me if I would give him two sacks of salt. I told m it would be useless for me to refuse, as he could take them by rce, so I told him to go ahead and help himself.

He then gave me two letters, the contents of which were unknown to e at the time, one of them being sealed, the contents of which is still nknown to me, the other certifying that he had seized the schooner Lily" for violation of the United States laws, and taken possession of chooner's papers.

8. He then told me to proceed to Sitka, Alaska. I asked him if he anted me to go to Victoria or Sitka, Alaska, to which he replied that e had nothing to say but simply told me his orders.

9. My crew, at this time, consisted of a mate, George McDonald, and hree white men, and twenty-five Indian hunters. The Indian hunters aid that they would not proceed to Sitka, and to avoid further trouble I irected the schooner course to Victoria, and arrived here the 1st day September at 7 o'clock P. M.

And I make this solemn declaration conscientiously believing the me to be true and by virtue of "The Oaths Odinance, 1889."

(Signed) JOHN REILLY.

Declared at the city of Victoria, British Columbia, this 11th day of eptember, 1889.

Before me, (Signed) THOS. SHOTBOLT,
Justice of the Peace.

This is the statutory declaration of John Reilly, referred to as marked C) in the declaration of Morris Moss, made before me the 19th ovember, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 17.

Ariel."—Ordered out of Behring Sea by United States steam-ship "Richard Rush," July 30, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
lance of estimated catch of 2,000 (1,156) skins, at 8 dollars.	$9,248.00	Affidavit of S. W. Bucknam, &c.
gal and other expenses	250.00	Do.
aim of owner, with interest at 7 per cent. to date of payment.	9,498.00	

53 DECLARATION OF SAMUEL W. BUCKNAM.

CANADA, *Province of British Columbia, city of Victoria.*

I, Samuel W. Bucknam, of the city of Victoria, in the Province of British Columbia, and Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. The hereinafter-mentioned schooner "Ariel" is a British vessel registered at the port of St. John, in the Province of New Brunswick, one of the provinces of the Dominion of Canada.

2. The registered owners of the said schooner "Ariel" are John M. Taylor and Bela R. Lawrence, both of the city of St. John aforesaid, who each own twenty-four shares thereof, and myself, who own the remaining sixteen shares thereof.

3. I am the managing owner and master of the said schooner "Ariel."

4. On the 9th day of February, A. D. 1889, I cleared the said schooner "Ariel" at the Customs at the said port of Victoria for a fishing and seal-hunting voyage in the North Pacific Ocean and Behring Sea, and on the 11th day of said month sailed from said port of Victoria on such voyage.

5. On and for said voyage I was master of said "Ariel," and one Herman Smith was mate, and said "Ariel" on said voyage carried a crew of twenty-two men all told. The said schooner "Ariel" was equipped and provisioned for a full season's voyage.

6. On the 12th day of July following, the "Ariel" entered Behring Sea. The seal-skins which had been taken by the hunters on said schooner in the North Pacific Ocean had been shipped to Victoria before entering Behring Sea, and no skins were on board on said 12th July.

7. The hunters on the "Ariel" began sealing on the 14th day of said July, and in the sixteen days following captured about 400 seal-skins.

8. On the 30th day of said month of July, at about 6 o'clock in the morning, the United States revenue cutter "Richard Rush" came alongside the "Ariel" and three officers from said "Richard Rush" boarded the "Ariel." The said officers examined and searched the "Ariel," asked the number of my crew, when I entered the sea, and how many seal-skins I had on board, and warned and threatened me that if I was caught taking seals, or with fresh seal-skins on board, the "Ariel" would be seized, and myself and mate placed under arrest. The said officers also told me that they had seized the schooners "Pathfinder," "Black Diamond," and "Minnie," and searched other vessels in the sea. The officers then left, and shortly after the cutter sailed away.

9. Fearing to remain in Behring Sea lest I should lose my vessel and be myself put in prison, I at once sailed for one of the passes leading from the sea. On the 31st day of July I lost a boat with three men, and remained some days in the immediate vicinity in order to pick them up. On the 21st August the "Ariel" sailed out of Behring Sea, homeward bound, with 844 seal-skins on board. On the 2nd day of September the "Ariel" arrived at Victoria aforesaid, fully one month earlier than the usual time of arrival for sealers from Behring Sea.

10. From the actual number of seals captured by the "Ariel" before being boarded as aforesaid and from the number actually captured by other sealing-vessels, with about the same equipment of boats and men as the "Ariel," I believe that had the "Ariel" not been molested in Behring Sea (and but for such boarding and threatening as aforesaid she certainly would have remained the full season) the said "Ariel" *would have* made a total catch of not less than 2,000 seal-skins.

11. The selling price of seal-skins at said Victoria on the said arrival of the "Ariel" and on the 1st October, about which time sealing-vessels usually arrive at Victoria from a full season's voyage, was 8 dollars per skin.

12. I for myself, the said John M. Taylor, and the said Bella R. Lawrence, my co-owners in said schooner "Ariel," and likewise for the crew of the said "Ariel" on said voyage who were and are entitled to share in the total catch of seal-skins by said vessel for the full season aforesaid, claim damages of and from the Government of the United States of America for the illegal boarding as aforesaid of the said schooner, and for having by threats and intimidation broken up the voyage of said schooner "Ariel" and thereby caused the loss of at least 1,156 seal-skins to the said vessel, her owners, and crew, and for legal and other expenses incidental to the preparation and submission of this claim.

13. Hereto annexed, marked (A), is a statement of such claim for damages as aforesaid.

And I, Samuel W. Bucknam aforesaid, make this solemn declaration conscientiously believing the same to be true and by virtue of "The Act respecting Voluntary and Extra-Judicial Oaths."

(Signed) SAMUEL W. BUCKNAM.

Signed and declared by the said Samuel W. Bucknam the 29th day of November, A. D. 1889.

Before me, (Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

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54 *Statement of claim against the United States of America re boarding and threats to seize the schooner "Ariel" in Behring Sea, July 30, 1889.*

2,000 seal-skins estimated catch for full season.
844 seal-skins number actually taken.

1,156 seal-skins balance of estimated catch, claimed in damages at 8 dollars..	$9,248
Legal and other expenses incidental to the making and submission of this claim	250
Total	9,498

And interest thereon at the rate of 7 per cent. per annum until paid.

This is the statement of claim referred to in the declaration of Samuel W. Bucknam, made before me the 29th November, A. D. 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 18.

"Kate."—Ordered out of Behring Sea by United States steam-ship "Richard Rush," August 13, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Balance of catch	$10,960.00	Affidavits of Neils Moss and C. Spring.
Legal and other expenses	250.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	11,210.00	

CANADA, *Province of British Columbia, city of Victoria.*

I, Neils Moss, of the city of Victoria, Province of British Columbia, Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. The hereinafter-mentioned schooner "Kate" is a British vessel, registered at the port of Victoria, British Columbia, and owned by Charles Spring, of the same place.

2. On or about the 1st June, 1889, I cleared the said schooner "Kate," as master thereof, at the Custom-house, port of Victoria, for a fishing and hunting voyage in the North Pacific Ocean and Behring Sea.

On the following day the "Kate" sailed on said voyage, fully equipped and provisioned for a whole season's voyage, and carrying a crew of four men.

3. On the west coast of Vancouver Island I engaged and took on board sixteen Indian hunters and sailed northward, entering Behring Sea on or about the 20th July following, having then on board twenty-four seal-skins caught outside Behring Sea.

4. A few days after entering the sea the hunters began taking seals, and continued to do so up to the 13th August following, on which day the "Kate" had on board 630 seal-skins.

5. On said 13th August, at about 6 o'clock in the evening, the United States revenue cutter "Richard Rush," steamed up to the "Kate," within hailing distance, and an officer asked me what I was doing. I replied that I was fishing. He said that he had orders to order all schooners out of Behring Sea if caught sealing, and if he saw me again in the sea he would seize me. The wind was blowing a gale at the time, and the cutter steamed away.

6. In consequence of what had been said to me by the officer of the said cutter I at once determined to leave the sea and not risk seizure, and on the 16th day of the said month of August the "Kate" sailed out of Behring Sea by the Ounimak Pass, and sailing south reached Victoria about the 10th September, after some days' delay on the west coast of Vancouver Island.

7. Before being spoken by the said cutter, my intention was to remain in Behring Sea until the 1st September, and with the hunters I had and average weather I verily believe that by the 1st September, had not the "Kate" been ordered to leave the sea and threatened with seizure if seen again by the said cutter, the said "Kate" would have made a total catch of not less than 2,000 seal-skins. The best part of the sealing season in the said sea was about beginning, and in the three days just preceding the said 13th August the hunters on the "Kate" brought in about 300 seal-skins.

I, Neils Moss aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) NEILS MOSS.

Signed and declared by the said Neils Moss, the 7th day of December, A. D. 1889, before me.

(Signed) ARTHUR L. BELYEA,
Notary Public by Royal Authority in and for the Province of British Columbia.

CANADA, *Province of British Columbia, Victoria.*

I, Charles Spring, of the city of Victoria, Province of British Columbia, Dominion of Canada, trader and ship-owner, do solemnly and sincerely declare as follows:

1. I am the sole owner of the schooner "Kate," of the port of Victoria aforesaid.

2. I have read the declaration of Neils Moss, the master of said schooner on a sealing voyage to the North Pacific Ocean and Behring Sea in 1889, and verily believe the same to be true.

3. The market value of seal-skins at Victoria, aforesaid, at or about the time the "Kate" arrived from said voyage and since that time, was, and now is, 8 dollars per skin.

4. I, on my own behalf and on behalf of the crew of said schooner, claim damages of and from the Government of the United States of America for having by force of threats and intimidation, compelled the master of said schooner on said voyage to leave Behring Sea before the close of the sealing season, and thus depriving the crew and owner of said vessel of the benefits and profits of a full season's catch of seal-skins.

I also claim compensation for legal, personal, and other expenses in connection with the preparation and submission of this claim for damages, and hereto annexed marked (A) is a statement in detail of such claim.

And I, Charles Spring, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) C. SPRING.

Signed and declared by the said Charles Spring, the 13th day of December, A. D. 1889, before me.

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

Statement of claim by owner of schooner "Kate."

2,000 seal-skins, estimated catch by "Kate" for full season of 1889 in Behring Sea.
633 less number taken up to 13th August, 1889.

1,370 balance, at 8 dollars per skin	$10,960
Legal and other expenses in preparation and submission of this claim	250
Total	11,210

And interest thereon at 7 per cent. until paid.

This is the statement (A) of claim referred to in the declaration of Charles Spring, made before me the 13th day of December, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

56 No. 19.

"Minnie."—Seized by United States steam-ship "Richard Rush," July 5, 1889.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
420 skins seized	$3,360.00	Affidavit of Victor Jacobson.
Balance of catch	12,752.00	Do.
Guns, spears, salt seized	98.00	Do.
Legal and other expenses	250.00	Do.
Claim of owner, with interest at 7 per cent. to date of payment.	16,460.00	

DECLARATION OF VICTOR JACOBSON.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Victor Jacobson, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. That I am the owner and master of the British vessel "Minnie," 50 tons burden, registered at the port of Victoria aforesaid.

2. That in the first part of the month of May last I cleared the said "Minnie" at the port of Victoria for a sealing and hunting voyage in the North Pacific Ocean and Behring Sea, and sailed immediately afterwards.

3. I had a crew of five white men and sixteen Indians, with two boats for white hunters, eight canoes for Indian hunters, and completely provisioned and equipped for a full season's hunting and sealing in northern waters.

4. On the 24th day of June last I entered the Behring Sea, through Ounimak Pass, having then on board about 150 seal-skins caught on the way up from Victoria.

5. I immediately engaged in hunting and sealing, and continued to do so until the 15th July last, at which date I had on board 420 seal-skins in all.

6. On that day, the 15th July last, about 4 o'clock in the afternoon, I sighted a steamer bearing down upon us, which proved to be the United States revenue steamer "Richard Rush." When within hailing distance, an officer of the said "Rush" called out to me to heave-to, and I did so, a boat was sent off from the "Rush" with two officers and ten or twelve men. The officer and five or six men came on board the "Minnie." The officer in command asked me for my papers, which I handed to him. He then asked me when I entered the sea, and how many skins I had. I told him, and he went back to the "Rush." In a short time he returned and told me he would take all the skins, seize my vessel, and send her to Sitka in charge of a man from the "Rush." He then ordered his men to open the hatches and take all the seal-skins, 420 in number, on board the "Rush," which was done. He also took two guns and all the Indian spears. He then went back to the "Rush," but soon returned to my vessel with a man, and said to me that this man would take charge of the vessel, except navigating her, and take her to Sitka.

7. At the time of the seizure the "Minnie" was about 65 miles northwest by west from Ounimak Pass, and about the same distance from Ounimak Island, the nearest land.

8. An hour or so after the "Rush" went away the man left in charge showed me his written instructions from Captain Shepard, of the

"Richard Rush;" as nearly as I can remember the directions he was to deliver the "Minnie" to the United States authorities at Sitka, and place her captain, myself, and mate under arrest. I at once made up my mind to stay where I was and catch what seals I could. Next morning I made new spears for the Indians and sent them out sealing. I remained in the sea up to the 16th August following, and in that time caught 486 seals and eight sea-otters. I did not see anything of the "Rush" after the 15th July.

9. In the season of 1888 I was in command of the schooner "Mountain Chief," with ten Indian hunters only. The said "Mountain Chief" was in Behring Sea less than twenty days, and in seventeen days' actual sealing the ten Indian hunters caught 937 seal-skins. On the said schooner "Minnie," in 1889, I had sixteen Indian hunters and two white hunters, and but for the interference of the United States revenue cutter "Richard Rush," as aforesaid, the "Minnie" would have remained in Behring Sea until about the 10th September, or a period of over two months.

10. I verily believe that if the "Minnie" had not been boarded, and the guns and spears taken as aforesaid, that the total catch of seal-skins by the hunters on board her for the season in Behring Sea would not have been less than 2,500.

57 11. The value at Victoria aforesaid of seal-skins on or about the close of the sealing season for 1889, and for some time both before and after such close, was 8 dollars per skin.

I claim damages from the Government of the United States of America for the seizure of the said "Minnie" as aforesaid, and for the taking and detention of the said 420 seal-skins, and for 1,594 seal-skins, the balance of an estimated catch of 2,500 by the "Minnie" in Behring Sea for the season of 1889, also for the guns, spears, and salt taken as aforesaid and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor, and interest thereon at 7 per cent. per annum until paid, a statement in detail of which claim is hereunto annexed.

And I, Victor Jacobson, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra-Judicial Oaths."

(Signed) VICTOR JACOBSON.

Declared by the said Victor Jacobson, at the city of Victoria, the 4th day of January, 1890.

Before me, (Signed) ARTHUR L. BELYEA,
A Notary Public by Royal authority in and for the Province of British Columbia.

***Statement of claim.**—Schooner "Minnie."—For damages for seizure, &c., in Behring Sea, July 15, 1889, by United States revenue cutter "Richard Rush."*

420 seal-skins taken from "Minnie" by "Richard Rush."
1,594 balance of estimated catch of 2,500 in Behring Sea in 1889 by "Minnie," after deducting 486 brought to Victoria by "Minnie."

2,014 at 8 dollars per skin	$16,112
1 gun, at 55 dollars, 1 gun, at 10 dollars	65
10 Indian spears, at 3 dollars	30
2 sacks salt, at 1 dol. 50 c.	3
Legal and other expenses	250
Total claim	16,460

And interest on said amount at 7 per cent. per annum until paid.

This is the statement referred to in the annexed declaration of Victor Jacobson, made before me the 4th day of January, 1890.

(Signed) ARTHUR L. BELYEA,
Notary Public.

No. 20.

"Pathfinder."—Seized by United States steam-ship "Thomas Corwin," March 27, 1890.

For—	Amount of claim as put forward by owner.	Evidence in support of claim.
Seizure and detention from 27th March, 1890, to 29th March, 1890.	$2,000.00	Affidavit of William Munsie.
Claim of owner, with interest at 7 per cent. to date of payment.	2,000.00	

58 DECLARATION OF MR. W. MUNSIE.

DOMINION OF CANADA, *Province of British Columbia, city of Victoria.*

I, William Munsie, of the city of Victoria, in the Province of British Columbia, merchant, solemnly and sincerely declare as follows:

1. I am the managing owner of the hereinafter-mentioned schooner "Pathfinder," duly registered at the port of Victoria aforesaid.

2. The said schooner is employed exclusively in the sealing business, and left the port of Victoria on or about the 17th January last on a sealing voyage along the Pacific coast, south of Vancouver Island.

3. On or about the 8th February last the "Pathfinder" returned to Victoria for repairs, and sailed again for the same purpose on or about the 12th February last.

4. On or about the 23rd day of March last, when off Cape Flattery, the "Pathfinder" encountered a storm and became disabled by the breaking of the tillerband, and was forced to find shelter in the nearest harbour, Neah Bay, in the State of Washington, United States of America, lying about 9 miles from Cape Flattery. The "Pathfinder" anchored in Neah Bay on the 26th March last.

On the evening of the 27th March last, while still lying in said bay, undergoing repairs, an officer from the United States revenue cutter "Thomas Corwin," boarded the "Pathfinder" and asked for the ship's papers. These were handed to him, inspected by him, and, in reply to a question by the captain of the "Pathfinder" as to whether they were all right, he replied that he would report to the Captain of the cutter next morning. The Captain of the cutter sent an officer on board the "Pathfinder" with a request that her captain would go on board the cutter and take his papers with him. The captain did so, and after looking over the papers the Captain of the cutter said he recognized the "Pathfinder" as a vessel which had been seized last year, and that he must detain her, as the law must be maintained. He then ordered the captain of the "Pathfinder" to heave his anchor, and said he would take the "Pathfinder" to the nearest telegraph station, which was Port Angeles. The captain of the "Pathfinder" protested against being removed, and declined to hoist anchor. The Captain of the cutter replied that if he did not hoist anchor men would be sent from the cutter to do so. Upon this the captain of the "Pathfinder"

went back to his vessel and ordered his men to heave the anchor up. The "Pathfinder" was then taken in tow by the cutter and taken to Port Townsend. At that place two officers from the cutter were placed on board the "Pathfinder" and remained in charge until the "Pathfinder" was released. The captain of the "Pathfinder" entered a protest at the office of the Collector of Customs, Port Townsend, and also filed a protest with the Captain of the cutter. After doing so he was persuaded to withdraw both protests until reply had been received from Washington as to what dispositions would be made of the "Pathfinder."

5. The "Pathfinder" was released on the afternoon of the 29th March last, and arrived at Victoria aforesaid on the morning of the 31st March last.

6. By reason of the said seizure or detention of the "Pathfinder" her owners have lost at least a week of the best period of the spring season for sealing. In consequence also of the seizure and detention a number of the crew of the "Pathfinder" have deserted, causing inconvenience and loss in filling their places.

7. In respect to the said seizure and detention, and of the losses thereby resulting, and for the expenses incurred by reason of such seizure or detention, I, as managing owner of the "Pathfinder," claim of and from the Government of the United States of America as damages the sum of 2,000 dollars.

And I, William Munsie, make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Act respecting Extra Judicial Oaths."

(Signed) WILLIAM MUNSIE.

Declared at the city of Victoria, British Columbia, this 4th day of August, A. D. 1890.

Before me, (Signed) FRANCIS B. GREGORY,
A Notary Public by Royal Authority in and for the Province of British Columbia.

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59 *Personal Claims.*

Claimed by—	For—	Amount claimed.
	1886.	
David Monroe, master of "Onward"	Illegal arrest and imprisonment	$4,000
Margutich, mate of "Onward"	do	2,500
Hans Guttormsen, master of "Thornton"	do	4,000
Harry Norman, mate of "Thornton"	do	2,500
James Ogilvie, master of "Carolena"	do	2,500
James Black, mate of "Carolena"	do	2,500
	Total for 1886	18,000
	1887.	
Warren, master of "Dolphin"	Sufferings and losses: navigating four vessels from Unalaska to Sitka.	2,635
John Reilly, mate of "Dolphin"	Sufferings and losses	1,000
George P. Ferey, master of "W. P. Sayward"	do	2,000
A. B. Laing, mate of "W. P. Sayward"	do	1,000
Louis Olsen, master of "Anna Beck"	do	2,000
Michael Keefe, mate of "Anna Beck"	do	1,000
W. Petit, master of "Grace"	do	2,000
C. A. Lundberg, mate of "Ada"	do	2,000
	Total for 1887	13,635
	Total for 1886 and 1887	40,635

Personal Claims—Continued.

Vessel.	Where seized.		By United States steam-ship.
	North latitude.	West longitude.	
	° ′	° ′	
Carolena	55 50	168 53	Corwin.
Onward	54 32	167 55	Do.
Thornton	55 45	168 44	Do.
Favourite	Hailed and warned in about the same position as "Onward."		Do.
W. P. Sayward	54 43	167 51	Rush.
Grace	55 3	168 40	Do.
Anna Beck	54 58	167 26	Do.
Dolphin	54 38	167 3	Do.
Ada	15 miles north of Ounalaska.		Bear.
Alfred Adams	54 48	167 49	Rush.
Triumph	About 10 miles south of Ouninak Pass.		Do.
Juanita	55 42	170 40	Do.
(Captain Shepard's certificate.)			Do.
Pathfinder	57 24	171 55	Do.
Triumph	50 5	171 23	Do.
Black Diamond	56 22	170 25	Do.
Lily	55 29	166 15	Do.
Ariel	Behring Sea		Do.
Minnie	....do		Do.
Kate	....do		Do.
Pathfinder	Neah Bay Washington		Corwin.

60 RECAPITULATION.

Year.	Vessel.	Amount claimed.	Total.
1886	Carolena	$24,313.01	
	Thornton	26,817.65	
	Onward	23,269.71	
	Favourite	7,000.00	
	Personal claims	18,000.00	
			$99,400.37
1887	W. P. Sayward	28,055.00	
	Grace	38,142.57	
	Anna Beck	27,863.04	
	Dolphin	40,201.50	
	Ada	26,528.00	
	Alfred Adams	20,433.00	
	Triumph	10,250.00	
	Personal claims	13,635.00	
			205,108.11
1889	Juanita	14,695.00	
	Pathfinder	26,765.00	
	Triumph	19,674.00	
	Black Diamond	17,185.00	
	Lily	17,176.00	
	Ariel	9,198.00	
	Minnie	16,460.00	
	Kate	11,210.00	
			132,663.00
1890	Pathfinder		2,000.00
Total claim without interest			439,171.48

TOTAL.

1886—	
Vessels	$81,400.37
Personal claims	18,000.00
1887—	
Vessels	191,473.11
Personal claims	13,635.00
1889—	
Vessels	132,663.00
1890—	
Vessels	2,000.00
Total	439,171.48

BEHRING-SEA ARBITRATION.

APPENDIX

TO

CASE OF HER MAJESTY'S GOVERNMENT.

VOLUME I.

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'PENDIX TO CASE OF HER MAJESTY'S GOVERNMENT.

VOL. I.

No. 1.

UKASE OF SEPTEMBER 4, 1821.

CT OF HIS IMPERIAL MAJESTY, AUTOCRAT OF ALL THE RUSSIAS.

he directing Senate maketh known unto all men:
Whereas in an Edict of His Imperial Majesty issued to the directing ate on the 4th day of September, and signed by His Majesty's own d, it is thus expressed:

bserving, from Reports submitted to us, that the trade of our subjects on the tian Islands and on the north-west coast of America, appertaining unto Russia, is ect, because of secret and illicit traffic, to oppression and impediments; and ng that the principal cause of these difficulties is the want of rules establishing oundaries for navigation along these coasts, and the order of naval communi- n, as well in these places as on the whole of the eastern coast of Siberia and Kurile Islands, we have deemed it necessary to determine these communications pecific Regulations, which are hereto attached.
forwarding these Regulations to the directing Senate, we command that the be published for universal information, and that the proper measures be taken arry them into execution.

(Signed) Count D. GURIEFF,
Minister of Finances.

is therefore decreed by the directing Senate that His Imperial esty's Edict be published for the information of all men, and that same be obeyed by all whom it may concern.
The original is signed by the directing Senate.]
Printed at St. Petersburgh. In the Senate, the 7th September, 1821.
On the original is written, in the handwriting of His Imperial Maj- y, thus:]
Be it accordingly.

(Signed) ALEXANDER.

KAMENNOY OSTROFF, *September 4, 1821.*

RULES ESTABLISHED FOR THE LIMITS OF NAVIGATION AND ORDER OF COMMUNICATION ALONG THE COAST OF THE EASTERN SIBERIA, THE NORTH-WEST COAST OF AMERICA, AND THE ALEUTIAN, KURILE, AND OTHER ISLANDS.

§ 1. The pursuits of commerce, whaling, and fishery, and of all other industry on all islands, posts, and gulfs, including the whole of the north-west coast of America, beginning from Behring Straits to the 51° of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Urup, viz., to the 45° 50′ north latitude, is exclusively granted to Russian subjects.

§ 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia as stated above, but also, to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo.

§ 3. An exception to this rule is to be made in favour of vessels carried thither by heavy gales, or real want of provisions, and unable to make any other shore but such as belongs to Russia; in these cases they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly Governments, merely on discoveries, are likewise exempt from the foregoing Rule 28. In this case, however, they must be previously provided with passports from the Russian Minister of the Navy.

§ 4. Foreign merchant-ships which, for reasons stated in the foregoing rule, touch at any of the above-mentioned coasts, are obliged to endeavour to choose a place where Russians are settled, and to act as hereafter stated.

§ 5. On the arrival of a foreign merchant-ship, wind and weather permitting, a pilot will meet her to appoint an anchoring place appropriated for the purpose. The captain who, notwithstanding this, anchors elsewhere without being able to assign a reason to the Commander of the place, shall pay a fine of 100 dollars.

§ 6. All rowing-boats of foreign merchant-vessels are obliged to land at one place appointed for them, where, in the day-time, a white flag is hung out, and at night a lantern, and where a clerk is to attend continually to prevent importing and exporting any articles or goods. Whoever lands at any other place, even without an intent of smuggling, shall pay a fine of 50 dollars, and if a person be discovered bringing any articles ashore, a fine of 500 dollars is to be exacted and the goods to be confiscated.

§ 7. The commanders of said vessels being in want of provisions, stores, &c., for the continuation of their voyage, are bound to apply to the Commander of the place, who will appoint where these may be obtained, after which they may, without difficulty, send their boats there to procure all they want. Whoever deviates from this rule shall pay a fine of 100 dollars.

§ 8. If it be unavoidable, for the purpose of repairing or careening a foreign merchant-ship, that she discharge the whole cargo, the master is obliged to ask the permission of the Commander of the place. In this case the captain shall deliver to the Commander an exact list of the nature and quality of the goods discharged. Every one who omits to report any part of the cargo will be suspected of smuggling, and shall pay a fine of 1,000 dollars.

§ 9. All expenses incurred by these vessels during their stay in the Russian territories must be paid in cash or bills of exchange. In case,

however, the captains of these ships have no money on board, and nobody gives security for their bonds, the Commander can, at their request, allow the sale of such articles, stores, or goods, required merely for defraying the above-stated expenses. These sales, however, can be made only to the Company, and through the medium of the Commander, but must not exceed the expenses of the ships, under penalty of the cargo being seized and a fine paid of 1,000 dollars.

§ 10. As soon as said foreign merchant-vessels are ready for their cargoes, stores, provisions, &c., they must immediately proceed to take them in, and after an examination, if they have loaded all the above-stated articles, and a written certificate of their not having left anything behind, they are to set sail. Such vessels as have not been unloaded are likewise subjected to sail without the least delay as soon as they are able to proceed to sea.

§ 11. It is prohibited to all commanders of the said foreign vessels, commissioners and others, whosoever they may be, to receive any articles, stores, or goods in those places where they will have landed, except in the case as per § 7, under penalty of seizure of their ship and cargo.

§ 12. It is prohibited to these foreign ships to receive on board, without special permission of the Commanders, any of the people in the service of the Company, or of the foreigners living in the Company's Settlements. Ships proved to have the intention of carrying off any person belonging to the Colony shall be seized.

§ 13. Every purchase, sale, or barter is prohibited betwixt a foreign merchant-ship and people in the service of the Company. This prohibition extends equally to those who are on shore and to those employed in the Company's ships. Any ship acting against this rule shall pay five times the value of the articles, stores, or goods constituting this prohibited traffic.

§ 14. It is likewise interdicted to foreign ships to carry on any traffic or barter with the natives of the islands, and of the north-west coast of America, in the whole extent here above mentioned. A ship convicted of this trade shall be confiscated.

§ 15. All articles, stores, and goods found on shore in ports and harbours belonging to Russian subjects (carrying on prohibited traffic) or to foreign vessels are to be seized.

§ 16. The foreign merchant-ships lying in harbour or in the roads dare, under no pretence, send out their boats to vessels at sea, or to those already come in, until they have been spoken to and visited, according to the existing customs. Whenever a foreign vessel hoists a yellow flag to announce an infectious disease being on board, or the symptoms of the same, or any other danger of which she wishes to be freed, every communication is interdicted until said flag is taken down. From this Rule, however, are excepted persons appointed for the purpose and whose boats be under the colours of the Russian-American Company. Any vessel acting contrary to this Regulation shall pay a fine of 500 dollars.

§ 17. No ballast may be thrown overboard but in such places as are appointed by the Commanders. The transgressor is liable to a fine of 500 dollars.

§ 18. To all foreign merchant-ships, during their stay in anchoring-places, harbours, or roads, it is prohibited to have their guns loaded either with balls or cartridges, under the risk of paying a fine of 50 dollars for each gun.

5 § 19. No foreign merchant-ship in port, or in the roads, or riding at anchor, may fire guns or muskets without previously informing the Commander of the place or Settlement, unless it be for pilots, signalizing the same by the firing of one, two, or three guns, and hoisting her colours, as is customary in similar wants. In acting contrary thereto she is subjected to a fine of 100 dollars for each shot.

§ 20. On the arrival of a foreign ship in the harbour, or in the roads, a boat will immediately be sent to meet her, and to deliver to the captain a printed copy of these Regulations, for which he must give receipt in a book destined for the purpose. He is further obliged to state in the book, as per annexed form, all information required of foreign vessels. All ships refusing to comply with these Regulations dare not approach the harbour, roads, or any anchoring-place.

Destination of the vessel.	Place where the vessel comes from.	Cargo.	Number of guns.	Number of crew.	Name of the captain.	Name of the owner.	What nation.	Name and burthen of the vessel.

§ 21. The captain of a foreign merchant-ship coming to an anchor in the port or in the roads is obliged, on his arrival, to give a statement of the health of the ship's crew, and should, after this, a contagious illness be discovered on board of his vessel, he must immediately inform the Commander of the place thereof. The vessel, according to circumstances, will be either sent off or put under quarantine in a place appropriated for the purpose, where the crew may be cured without putting the inhabitants in danger of infection. Should the captain of such a ship conceal the circumstance, the same will be confiscated with her whole cargo.

§ 22. The master of a vessel, at the request of the Commander of a place, is obliged to produce a list of the whole crew and all the passengers, and should he omit any, he shall pay a fine of 100 dollars for every one left out.

§ 23. The captains are bound to keep their crew in strict order and proper behaviour on the coasts, and in the ports, and likewise prevent their trading or bartering with the Company's people. They are answerable for the conduct of their sailors and other inferiors. Illicit trade carried on by sailors subjects the vessel to the same penalty as if done by the captain himself, because it were easy for the captains to carry on smuggling without punishment, and justify themselves by throwing the fault on the sailors. Therefore, every article found upon sailors which they could not hide in their pockets or under their clothes to screen from their superiors, sold or bought on shore, will be considered as contraband from the ship, and is subject to the prescribed fine.

§ 24. Foreign men-of-war shall likewise comply with the above-stated Regulations for the merchant-ships, to maintain the rights and benefit of the Company. In case of opposition, complaints will be made to their Governments.

§ 25. In case a ship of the Russian Imperial Navy, or the one belonging to the Russian American Company, meet a foreign vessel on the

above-stated coasts, in harbours or roads, within the before-mentioned limits, and the Commander find grounds, by the present Regulation, that the ship be liable to seizure, he is to act as follows:

§ 26. The Commander of a Russian vessel suspecting a foreign vessel to be liable to confiscation must inquire and search the same, and finding her guilty, take possession of her. Should the foreign vessel resist, he is to employ first persuasion, then threats, and at last force, endeavouring, however, at all events, to do this with as much reserve as possible. If the foreign vessel employ force against force, then he shall consider the same as an evident enemy, and force her to surrender according to the naval laws.

§ 27. After getting everything in order and safety on board the foreign vessel, the Commander of the Russian ship, or the officer sent by him, shall demand the journal of the captured vessel, and on the spot shall note down in the same that on such a day, month, and year, at such an hour, and in such a place, he met such and such a foreign vessel, and shall give a brief account of the circumstance, pursuit, and, finally of the seizure. After signing the same he shall desire the captain of the captured vessel to confirm the same in his own handwriting. Should he, however, refuse to sign the same, the Russian officer is to repeat his summons in presence of all the officers, and if on this it be again refused, and nobody will sign in lieu of the captain, he is then to add this circumstance, signed by himself. After this arrangement, the journal, list of the crew, passports, invoices, accounts, and all further papers respecting the views and pursuits of the voyage of the vessel, shall be put up in one parcel, as well as all private papers, viz., the journals of the officers, letters, &c., and sealed with the seals of the Russian officer, and those of the captain and first officer of the foreign vessel. This packet shall remain sealed with the Commander of the Russian vessel until their arrival at the port of St. Peter and Paul, where it shall be deposited in the Court as mentioned in § 33. Besides this, everything else must be sealed by the Russian officer and the foreign captain that is not requisite for the continuation of the voyage to the port of St. Peter and Paul, excepting the effects for immediate and sole use of the ship's crew, which shall not be withheld from them.

§ 28. Having thus fixed all means of precaution, the officer sent to arrest the foreign vessel shall make instantly his report to his Chief, and await his orders.

§ 29. Thus, should by any cause stated in the 2nd, 11th, 12th, and 21st sections of these Regulations, a foreign vessel be subjected to confiscation in any port near the Settlement of the Russian-American Company, the Commander of that Settlement is obliged either to ask the assistance of the Russian man-of-war, if there be any, and the Commander of which, on receipt of a written request, is obliged to arrest the vessel, and use all the precautions prescribed in the foregoing Article, or, if there be no Russian man-of-war in the harbour or its neighbourhood, and the Commander of the Settlement find that he and his people can arrest the vessel by themselves, he then is to act according to the 26th, 27th, and 28th sections, and putting ashore the captain, and every means of getting the vessel away, he must endeavour as soon as possible to give information of this event either to the Governor of the Colonies of the Russian-American Company or the Commander of the Imperial man-of-war, if it be known where she lie.

§ 30. When, in consequence of such a report, the Governor of the Colonies shall send the Company's vessel, or a Government vessel arriv-

ing, then the Commander of the place shall deliver up the vessel seized, and all belonging to her, and shall report respecting his reasons for confiscating the vessel.

§ 31. The Commander of the vessel, taking charge of the seizure per inventory, shall examine immediately into all circumstances mentioned, and compare it with the accounts of the Commander of the Settlement, who will give every elucidation required.

§ 32. All vessels detained by Russian men-of-war are ordered by these Regulations to be brought to the port of St. Peter and Paul, where the sentence is to be passed on them by a Court established for adjudging such cases.

§ 33. This Court, under the presidency of the Commander of Kamtchatka, shall consist of the three senior officers under him, and of the Commissioner of the Russian-American Company.

§ 34. As soon as a Russian vessel, bringing into the port of St. Peter and Paul a foreign vessel arrested by her, has come to an anchor in the place assigned her, the commander of her is immediately to repair to the Commander of Kamtchatka, stating briefly what vessel he had brought in, the number of the crew, and the sick, specifying their diseases, and reporting likewise whether the vessel has sufficient victuals, and what goods, guns, and other arms, powder, &c., are on board.

§ 35. The Commander of Kamtchatka, on receiving this report, will order two officers and a sufficient number of men on board the captured vessel.

§ 36. These two officers, together with the officers who brought in the detained ship, when on board, are to summon the master and two of his mates or men in command next to him, inspect all the seals put on the vessel, and then, taking them off, begin immediately to make an accurate list of all the effects belonging to the vessel.

§ 37. This list is to be signed by all the officers on both sides who were present in drawing it up. The Commander of Kamtchatka is to use all possible endeavours to secure from embezzlement or damage all effects belonging to the detained vessel.

§ 38. The crew of the vessel is then to be sent ashore to such place as shall be appointed by the Commander of Kamtchatka, and remain there until the close of the investigation.

§ 39. The Commander of the Russian vessel is obliged, in the course of two days after his arrival at the port of St. Peter and Paul, to make a minute representation to the Commander of Kamtchatka of all that shall have happened at the detention of the foreign vessel brought in by him, and to deliver said vessel, together with the sealed paquet containing her papers, expressed in § 27.

§ 40. If the Russian vessel that brought into the port of St. Peter and Paul a foreign vessel cannot for reasons remain there until the close of the investigation, but be obliged to proceed to sea in a very short time, the Commander, in order not to detain her, shall use all possible dispatch by bringing forward the investigation of such points as may require the presence of the Russian vessel.

§ 41. Having settled everything on board the arrested vessel and landed the crew, the Court immediately shall open the session, and endeavour to ascertain as soon as possible the solution of the inquiry, whether the vessel be lawfully arrested or not.

§ 42. In order to ascertain this, the following proofs shall be substantiated:

1. That the vessel was met with within the boundaries prescribed in § 2 of these Regulations, and that her having been within such limits *was not occasioned* by reasons stated in § 3.

2. That the vessel is a lawful prize by virtue of the §§ 2, 11, 12, 14, and 21 of these Regulations, and the § of the Instructions to the Commander of the Russian man-of-war.

§ 43. In order to decide either case, the Court is to inspect all documents presented, and tracing on one part all proofs of guilt, and on the other all doubts which might clear the foreign vessel, summon the commanding officer of the Russian vessel to give all additional information deemed needful, and completing thus all circumstances
7 condemning the foreign vessel, the Court shall draw up a clear statement of the reason of her condemnation.

§ 44. Should the Court, in making out said statement, find that the foreign vessel has been arrested without sufficient cause, said Court on passing sentence is to determine the damage suffered by such detention, and to furnish both parties with a certified copy of this Resolution.

§ 45. In the course of two days, both parties shall declare whether they are satisfied with the decision of the Court or not, and in the latter case (should it happen) assign it in writing.

§ 46. Should both parties be satisfied with the decision of the Court, then the Commander of Kamtchatka is to release immediately the detained vessel, returning everything to the master according to the inventory, along with the adjudged damages, exacting them from whomsoever is to pay the same.

§ 47. If, on the contrary, the Court receive on the third day a repeal to its decision, it is bound to take that repeal into immediate consideration, and finding it just, to change its decision, if not, to confirm the same, and make it known to the parties a second time. After this no representations shall be admitted, and both parties shall be summoned before the Court, which shall allow them to make their protest in writing, and will then state all the reasons why the sentence passed should be carried into execution.

§ 48. If the Court find by the indictment that the vessel has been lawfully detained, then the master of the foreign vessel, or the two eldest in command under him, shall be summoned, and the reasons of their detention made known to them, giving them a certified copy of the condemnation.

§ 49. The Court is to receive within three days, and no later, the representations of the master, and if he do not present the same within the time limited, the Court summoning him, with two of his crew, notifies that his silence is received as a mark of compliance, and that the condemnation is just.

§ 50. In this case the Court comes to its final decision, which, on the following day, is communicated to the whole crew of the foreign vessel, who shall sign, all and every one, that such sentence has been made known to them, after which the Commander of Kamtchatka is to carry the sentence of the Court into execution, as will be explained hereafter.

§ 51. Should, however, the master deliver within the time limited his protest, then the Court, examining it with all possible impartiality, shall call for all further explanations, and, having inserted the whole into the journal of the Court, shall pass a final sentence, and pronounce it, as stated in § 47.

§ 52. If, by sentence of the Court, the arrested vessel be released, and adjudged to receive damages for her detention, and if the vessel has been arrested by any of the Company's officers, and the damages are not above 5,000 roubles, the Commander of Kamtchatka shall demand immediate payment of said sum from the office of the Russian-American Company, but if the damages exceed that sum, he is to notify it to

the Company's office, and give to the foreign master a certificate; but the money cannot be paid by the Company otherwise than after the inspection and Resolution of its Court of Directors. If, on the other hand, the foreign vessel has been detained unlawfully by a Russian man-of-war, the Commander of Kamtchatka is to pay the adjudged damages (not exceeding the sum of 5,000 roubles) out of any Government sum, and to report, in order to incash it from the guilty, but if the damages should exceed the sum of 5,000 roubles, the Commander of Kamtchatka is to furnish a certificate for the receipt of the money after the regulation and confirmation of the Russian Government.

§ 53. The reimbursement of such damages as may have been incurred by unlawful detention shall be exacted from the Commander and all the officers of the man-of-war, who, having been called by the Commander to a council, shall have given their opinion that such a ship ought to be detained.

§ 54. As soon as a foreign ship is sentenced to be confiscated, the Commander of Kamtchatka is to make due arrangements for transporting the crew to Ochotsk, and from thence to any of the ports in the Baltic, in order to enable every one of them to reach his own country. With the confiscated ship and cargo, he is to act as with a prize, taken in time of war.

§ 55. After this the Commander of Kamtchatka shall order a Committee to value the vessel and her cargo. This Committee is to be composed of one member appointed by the Commander of Kamtchatka, one by the Commander of the man-of-war, and a third by the Russian-American Company.

§ 56. These Commissioners are to make up a specified list and valuation according to the following rules:

1. All provisions, rigging, iron, powder, and arms shall be put down at such prices as they cost Government there.

2. All merchandize which might be used in Kamtchatka and the Company's Colonies, and which are carried there at times from Russia, shall be valued at their prices then existing.

3. All goods which are not imported into these places from Russia, but are wanted there, shall be valued like goods brought from Russia, being the nearest to them, and in proportion to their wants.

4. All goods not in use at Kamtchatka or the Colonies shall be sent to Irkutsk and sold at public auction by the proper authorities.

8 § 57. The said Commissioners shall present their valuation to the Commander of Kamtchatka for his approbation, who, in case of not finding the same exact, shall return it, with his remarks, and shall appoint other officers to inspect such articles as may appear unfairly valued.

§ 58. If the Commissioners hereafter continue in their opinion, and the Commander of Kamtchatka find it impossible to agree thereto, he shall provisionally consent and leave the final decision to Government.

§ 59. According to this valuation the Commander of Kamtchatka shall mark, for the use of Government, all those articles which he thinks are wanted; the remainder is left at the disposal of the officers of the ship or of the Russian-American Company. The seized vessel shall be valued by the Court, and the valuation sent immediately to the Minister of the Navy, with a report whether such a vessel is wanted for Government service or not.

§ 60. The whole sum of valuation of the confiscated vessel and cargo is to be divided in the following manner. The expenses necessary to forward the ship's crew to one of the ports in the Baltic are to be

deducted, and the remaining sum divided, if the vessel has been taken by the Russian-American Company's officers, and carried to the port of St. Peter and Paul by a ship of said Company, without the interference of a man-of-war, into five parts, of which one goes to the Government, and the remaining four-fifths to the American Company. If the vessel be taken in any of the Company's Settlements by the Company's officers, but brought to the port of St. Peter and Paul by a man-of-war, after deducting one-fifth for Government, two-fifths are to belong to the crew of the man-of-war, and the remaining two-fifths to the Russian-American Company, and finally, if such foreign vessel be detained by men-of-war only without the assistance of the Company's officers, then, after deducting one-fifth for Government, the remainder is left to the officers of the men-of-war.

But if a vessel be taken by the conjoint forces of a man-of-war and a Company's vessel, then the prize shall be divided between them in proportion to their strength, regulating the same according to the number of guns.

§ 61. The sum coming to the officers of the man-of-war shall be divided according to the Rules for dividing prizes in time of war. In all cases, officers who had a share in seizing foreign vessels convicted of the intention of infringing the privileges most graciously granted to the Russian-American Company, may expect to receive tokens of His Imperial Majesty's approbation, especially when, after deducting the expenses for conveying the crew, their part in the prize-money should prove but trifling.

§ 62. If a foreign vessel detained by a Russian being under the command of a Russian officer should be cast away before reaching the port of St. Peter and Paul, the following principle shall be observed:

If the foreign vessel alone be lost, and the Russian accompanying her arrive at the port of St. Peter and Paul, then the Court acts according to the foregoing Rules to determine whether that vessel was lawfully seized. In this case Government takes upon itself the expenses of conveying to a port of the Baltic such of the ship's crew as were saved. But if such a vessel should not be proved to have been detained lawfully, then, independent of those expenses, the ship shall be valued, and such valuation forwarded to Government for the payment of what may be deemed just; at the same time investigation shall be made on the loss of the vessel, and the officer that had the command (if saved) is to be tried according to the Maritime Rules and Regulations.

§ 63. The Commander of Kamtchatka is bound to make a special report to the Governor-General of Siberia respecting every circumstance happening to foreign vessels, annexing copies of all documents, journals, and sentences of the Court, and of all papers relating thereunto.

The original is signed:

Count D. GURIEFF,
Minister of Finances.

9 No. 2.

UKASE OF SEPTEMBER 13, 1821, GRANTING PRIVILEGES TO THE RUSSIAN-AMERICAN COMPANY FOR TWENTY YEARS.

THE UKASE OF HIS IMPERIAL MAJESTY THE AUTOCRAT OF ALL THE RUSSIAS IS HEREBY PUBLISHED BY THE RULING SENATE.

[Translation.]

By His Imperial Majesty's Ukase, bearing his signature, and communicated to the Ruling Senate on the 13th day of September, of the year 1821, it is decreed:

"The Russian-American Company, under our protection, availing itself of the privileges conferred on it by Imperial Decree in the year 1799, has completely fulfilled what we expected of it, by its success in navigation, by what it has done to develop the trade of the Empire, to the benefit of all, and by securing considerable profits to those who are directly interested in it. In consideration whereof, being desirous of prolonging its existence and establishing it yet more firmly, we hereby renew the privileges granted to it, with the necessary additions and modifications, for a period of twenty years from this date, and having sanctioned the new Regulations drawn up for it, hand this over to the Ruling Senate, commanding them to prepare the necessary document setting forth these privileges, to lay it before us for our signature, and to take the proper further steps in the matter."

PRIVILEGES GRANTED TO THE RUSSIAN-AMERICAN COMPANY FOR TWENTY YEARS FROM THIS DATE.

1. The Company founded for the exercise of industries on the mainland of North-western America, and on the Aleutian and Kurile Islands, shall be, as heretofore, under the protection of His Imperial Majesty.

2. It shall have the privilege of carrying on, to the exclusion of all other Russians, and of the subjects of foreign States, all industries connected with the capture of wild animals and all fishing industries, on the shores of North-western America which have from time immemorial belonged to Russia, commencing from the northern point of the Island of Vancouver, under 51° north latitude, to Behring Straits and beyond them, and on all the islands which belong to that coast, as well as on the others situated between it and the eastern shore of Siberia, and also on those of the Kurile Islands where the Company has carried on industries, as far as the southern extremity of the Island of Urup under 45° 50′.

3. It shall have the exclusive enjoyment of everything in that region which it has hitherto discovered, or which it may in future discover, either on the surface of the earth or in the earth.

4. The Company may make discoveries within the limits defined above, and it is authorized to annex such newly-discovered places to the Russian dominions, provided they have not been occupied by any other European nation, or by citizens of the United States, and have not become dependencies of such foreign nation; but the Company may not found permanent settlements in such places unless authorized to do so by the Emperor.

5. Within the limits defined in section 2, the Company is authorized to found new settlements, and to construct works of defence at any point, should such be necessary, at its own discretion, and to enlarge and improve existing settlements or works of defence; it is permitted to send ships with men and merchandize to those places without hindrance.

6. In order to insure to the Company the enjoyment of the exclusive rights granted to it, and to prevent for the future any interference or damage to it arising from the action of Russian subjects or of foreigners, Regulations are now drawn up regarding the manner in which those persons are to be dealt with who, either voluntarily or under stress of circumstances, come to the places defined in section 2 of these privileges, in spite of the fact that they are prohibited from coming to them. These Regulations must be strictly observed both by the Company and by those authorities whom they may concern.

7. The Company is authorized to communicate by sea with all neighbouring nations, and to trade with them, with the consent of their Governments, except in the case of the Chinese Empire, the shores of which the Company's ships are never to approach.

In regard to other nations, the Company's ships shall not have trade or other relations with them against the wish of their Governments.

8. All Courts of Law shall recognize the Administration of the Company as established for the management of its affairs, and all writs from Courts in matters concerning the Company shall be addressed to that Administration, and not to any one of the members of the Company.

. In handing over so large an extent of territory to be administered by the Com-
ıy, the Emperor grants to the latter the following advantages, in order to enable
he better to carry out the objects of the Government, by encouraging the Com-
ıy's officials in all its factories and dependencies both inland and on the sea-coast,
managers, book-keepers, cashiers, and their deputies, supercargoes, shipping
clerks, and others:

(1) The Chief Manager, on appointment to the office, shall, if he be a mili-
tary officer or belong to the Civil Service, enjoy the precedence defined by the
ase of the 21st March, 1810, concerning officials appointed to the Siberian Gov-
ments.

2) With regard to Government officials whose services are applied for temporarily
accordance with the Ukase of the 9th April, 1802, they are to be considered as
ng on active service so far as all rewards are concerned; they shall, however,
eive promotion in official rank according to their seniority and merit at the post
ich they actually occupy. They shall continue to draw half their pay and allow-
:es, in accordance with the terms of the same Ukase.

3) Retired Government officials, on entering the service of the Company, shall
ain their general official rank, and shall be considered to be on active service.
is right is extended also to those who have served the Company in any capacity
sequently to the grant of the privileges by the Emperor in 1799. Those persons
o belong to (social) classes having the right to enter the Government service, but
o have not served, and have no official rank, shall, after serving the Company for
o years, obtain the rank of Collegiate Registrar, on application being made on
ir behalf by the Administration of the Company, and shall be promoted to the
her official ranks by length of service, according to the General Rules; on retire-
nt they shall retain their rank only if they have held it for at least five years,
l if the Administration bears testimony to their abilities and value.

4) Persons in the employment of the Company who belong to (social) classes
ich have not the right to enter the Government service, shall not, until they are
en out of those classes, be on the same footing as those referred to in (3). But if
y hold the appointment of a Manager of a station, they shall, during the time
t they occupy the post, enjoy the privileges of the ninth official class, that is, of
ular Councillor; with regard to persons holding appointments as book-keepers,
hiers, their assistants, supercargoes, &c., the Administration is authorized to
ce them in any official class between the fourteenth and ninth according to their
lities and value; but none of these officials shall, on vacating their posts and
ving the service of the Company, retain the precedence of their official class,
less they have been taken out of the (social) class to which they originally
onged, and have fulfilled all the conditions prescribed by the General Regulations
the subject, and unless they have served the Company for at least twelve years
l are certified, on their retirement, to be deserving and capable.

10. In accordance with the Ukases of the Ruling Senate, dated the 16th February,
01, 6th April, 1805, and 20th March, 1808, the Company may take into its employ,
any Government of the Russian Empire, for service at sea, or for the exercise of
lustries, or to serve in its factories, persons with or without means, being free and
good reputation, and furnished with ordinary passports, or workmen's passports;
l the authorities of the Governments shall be instructed to give to all such per-
ıs engaged by the Company passports to run for periods from one year to seven
ırs, as the Company may wish; and the Company shall pay the dues and fees on
ıalf of such persons to the proper authorities.

11. If any persons in the employment of the Company, on the expiration of the
·iods of service agreed upon with them, wish to remain in its service in America, or
hey owe money to the Company, the latter shall not be obliged to send them back
Russia, but new passports shall be granted to them, on the application of the
mpany; such applications must, however, be accompanied by proofs in writing
ıt the persons concerned consent to remain in America for one of the reasons speci-
l above. The documents must be signed by them, or, if they cannot write, by
ne other person at their request and before two witnesses.

12. All persons in the employment of the Company are bound to obey implicitly
› orders of their superiors, and are answerable to the Company for all losses caused
their fault. The Courts will compel all such persons to give an account of their
›ceedings, and, on the application of the Administration of the Company, will,
thout loss of time, subject them to a legal inquiry. Such persons may, however,
peal to the Ruling Senate, such appeal to be lodged within six months from the
te on which they have been informed of the decision arrived at.

13. No Court or Governor of a town shall, under any circumstances, compel any
ıtion or agency established by the Company to make any payment, unless expla-
tions have previously been called for from such station or agency, or unless it has
en authorized to make the payment by the Administration of the Company, to
ıich all such demands should be addressed.

14. If a shareholder of the Company owes money to the Government, or to private persons, and his estate, apart from his share in the Company, is not sufficient to cover the debt, the debtor's capital which is in the hands of the Company under the Regulations drawn up for it shall become, to the extent of the debt, the property of the Government, or of his creditors, together with all profits not yet distributed belonging to his share of the Company's capital; and the Company shall accordingly transfer the capital to the Government, or to the creditors, in accordance with the notice given by the Government, or with the decree of a Court of Justice assigning the amount of the debt, as the case may be.

15. The Company's shares may, in accordance with the decision of the Committee of Ministers of the 19th September, 1814, be mortgaged to the Government to
11 the extent of half their value. If the property of the owner of the shares is attached, and he is unable to pay off the mortgage, the shares shall be sold by public auction. Any surplus there may be after the amount for which the shares were mortgaged is paid shall be handed to the owner; if less than the amount of the mortgage is realized, the Government have the option of keeping the shares; otherwise the Company will at once pay the amount of the mortgage to the Government, and take over the shares.

16. If a dispute, in connection with the business or accounts of the Company, arises between the Company and one of its shareholders of so serious a character that it cannot be speedily arranged in an amicable manner, such dispute shall be inquired into and settled by a general meeting of the shareholders who have a right to vote; the shareholder with whom the dispute has arisen shall be present. The decision of the meeting shall be carried out without delay; but, if the shareholder considers himself aggrieved, he may appeal to the Ruling Senate, such appeal to be lodged within six months from the day on which he has been informed of the decision.

17. The Emperor is pleased to allow the Russian-American Company to take on board its ships which are sent round the world from Cronstadt, or dispatched from Okhotsk to the Russian Colonies, cargoes of Russian or foreign products on which duty has been paid, and when they return from those Colonies with cargoes of furs and other colonial products, to unload them without hindrance, on notice being given of such cargoes at Cronstadt by the Administration of the Company to the custom-house, and at Okhotsk by its agent to the local authorities. No duty is to be paid on either of these classes of merchandize when taken from one Russian port to another, except when, in the case of furs, a special internal duty is fixed by law.

18. Although it is forbidden by Imperial Ukases to cut wood in any forest belonging to the State without the permission of the Department of Forests, nevertheless, in view of the distance of the Okhotsk territory, where the Company requires wood for repairing its ships, and sometimes for building new ones, it is authorized to cut wood for those purposes in any part of that territory without making payment for the same, provided that information is given, without delay, to the Forest Department of the territory, both of the place chosen for cutting the wood, and of the amount and quality of the wood cut.

19. In case communications by sea between the Colonies and European Russia are interrupted, the Company may obtain from the Government Artillery Stores at Irkutsk from 40 to 80 poods of gunpowder a-year, and from the mines at Nertshinsk up to 200 poods of lead a-year, to be used for shooting game, for signalling at sea, and in unforeseen contingencies. The proper price must be paid in ready money.

20. In order to enable the Company to carry on its operations without interruption or molestation, the privilege of exemption from the quartering of troops is granted in the case of all buildings used for factories by the Company.

In conclusion, all civil and military authorities, and all Courts of Justice, are ordered not only not to interfere with the enjoyment by the Company of the privileges hereby granted to it, but also, if necessary, to guard it from losses or damage, and to give all the protection and assistance they can to the Administration of the Company, and to the stations and agencies belonging to it.

REGULATIONS OF THE RUSSIAN-AMERICAN COMPANY.*

GENERAL PROVISIONS.

§ 1. [Description of the Company.]
§ 2. [Origin of the Company. Number of shares.]
§ 3. [Persons allowed to hold shares.]
§ 4. [Form of shares.]
§ 5. [Limited liability.]
§ 6. [Transfers of shares.]
§ 7. [Division of profits.]

*The portions in brackets are abstracts.

THE ADMINISTRATION OF THE COMPANY AND THE MEETINGS OF THE SHAREHOLDERS.

§ 8. [Persons having a voice in the management.]
§ 9. [Manner of voting.]
§ 10. [Cases of absence of shareholders from meetings.]
§ 11. [Notice of meetings.]

COUNCIL OF THE COMPANY.

§ 12. [Authority of Council.]
§ 13. [Composition of Council.]
§ 14. [Election of Council.]
§ 15. [Retirement of members of Council.]
§ 16. [Retiring members eligible for re-election.]
§ 17. [Important and secret political or commercial matters to be dealt with by the Council and Administration jointly.]
§ 18. [The Directors may ask that such matters may be dealt with by the Council and Administration jointly.]
§ 19. [Members of Council to observe secrecy.]
§ 20. [Directors have voices at meetings of Council.]
§ 21. [Decisions of joint meetings of Council and Administration.]
§ 22. [Quorum of joint meetings of Council and Administration.]
§ 23. [Procedure in cases where a joint meeting of the Council and Administration cannot arrive at a decision.]

THE ADMINISTRATION.

§ 24. [Description of Administration.]
§ 25. [Administration consists of not more than four Directors.]
§ 26. [Directors are chosen by ballot.]
§ 27. [Only persons holding at least ten shares may vote at election of Directors.]
§ 28. [Oath to be taken by Directors.]
§ 29. [Retirement of Directors.]
§ 30. [Powers of Directors.]
§ 31. [Objects to be aimed at by the Administration.]
§ 32. [The founding of new stations.]
§ 33. [Seal of the Administration.]
§ 34. [Each station to have a seal.]

OF THE COMPANY'S RESPONSIBILITIES.

I.—IN RELATION TO THE GOVERNMENT.

§ 35. [The Company will use its best endeavours to prove that it deserves the confidence reposed in it by the Emperor.]
§ 36. [The Company will keep the Government informed of its proceedings.]

II.—IN RELATION TO RUSSIAN SUBJECTS RESIDING IN THE TERRITORY ADMINISTERED BY THE COMPANY.

§ 37. [The Company will provide for the religious wants of the territory by seeing that there are always enough priests for its requirements.]
§ 38. [Great caution will be exercised in the choice of persons to serve under the Company.]
§ 39. [The Company will do all in its power to provide for the bodily welfare of its servants.]

§ 40. [Russian births and deaths are to be announced to the proper authorities in Russia.]
§ 41. [The position of "creoles," *i. e.*, the offspring of Russian fathers and native mothers.]
§ 42. [Native races inhabiting the Company's territory.]
§ 43. [Position of the natives of the islands.]
§ 44. [The natives of the islands are subject to Russian law.]
§ 45. [They shall not pay taxes.]
§ 46. [The Company to furnish statistics of the number of islanders, births, deaths, &c.]
§ 47. [The natives of the islands are to be ruled by their own Chiefs under Russian overseers.]
§ 48. [Position of the Chiefs and overseers.]
§ 49. [The natives of the islands are to be provided with land by the Company.]
§ 50. [Persons guilty of oppressing them are to be punished.]
§ 51. [The islanders are to assist the Company in fishing and hunting.]
§ 52. [The Chiefs will provide the requisite number of natives for this purpose.]
§ 53. [Conditions of service of the islanders.]
§ 54. [Re-engagement of the islanders who have served their time.]
§ 55. [Conditions under which native women and children may be employed.]
§ 56. [The islanders may fish and hunt on their own account under certain conditions.]

III.—IN RELATION TO THE NATIVES INHABITING THE SHORES OF AMERICA WHERE THE COMPANY HAS COLONIES.

§ 57. [Attitude to be observed by the Company towards the natives of the Continent of America.]
§ 58. [The natives are not to pay any kind of taxes, and are to be well treated.]
§ 59. [Position of natives of the continent who may wish to reside in the Russian settlements.]

13 IV.—IN RELATION TO NEIGHBOURING STATES AND THEIR SUBJECTS.

§ 60. In return for the confidence reposed in the Company by the Government in granting to it so vast an extent of territory on the frontier of the Empire, the Company is bound to abstain from any action which might cause an interruption of friendly relations with neighbouring States. The Company must be careful to observe all the rules laid down by foreign Powers for the guidance of their subjects in their relations with foreigners, as well as all the provisions of the Treaties in force between Russia and foreign countries, especially those relating to the Chinese Empire.
§ 61. Questions concerning the relations with foreign Powers which are beyond the competence of the Colonial Administration are to be referred to the Minister of Finance, who will communicate the decision of the Government.
§ 62. For the guidance of the Company in the matter of the steps to be taken in regard to foreign ships entering the colonial waters, in exceptional cases, or in contravention of the privileges granted to it by the Emperor, special rules have been drawn up, entitled: "Regu-

lations on the subject of the Limits of Navigation and Communication by Sea along the Shores of Eastern Siberia, North-western America, and the Aleutian and Kurile Islands."

OF THE SUPERVISION OF THE COMPANY'S PROCEEDINGS BY THE GOVERNMENT.

I.—OF THE SUPERVISION OF THE COMPANY'S PROCEEDINGS BY THE DEPARTMENT OF THE MINISTER OF FINANCE.

§ 63. [The relations of the Company with the Government are under the supervision of the Finance Department.]

§ 64. [The Minister of Finance will see that the Company keeps strictly within the terms of its privileges.]

§ 65. [In case of necessity the Minister of Finance will take steps for the protection of the Company from any danger that may threaten it.]

II.—OF THE SUPERVISION OF THE PROCEEDINGS OF THE COMPANY'S SERVANTS IN SIBERIA AND IN THE COMPANY'S COLONIES.

§ 66. [Action to be taken by the authorities in Siberia in case of irregularities on the part of the Company's servants at stations in Siberia.]

§ 67. [In order to control the proceedings of the Company's servants in the Colonies, the Government stipulates that the Chief Manager shall be a naval officer, and that the sanction of the Emperor shall be necessary to his appointment.]

§ 68. [Points on which the Government wishes to be kept informed.]

§ 69. [Action to be taken by Commanders of ships of war if any one complains to them of ill-treatment.]

§ 70. A ship of war, after visiting, not only the Company's settlements, but also, and more particularly, the channels which foreign merchant-vessels are likely to frequent for the purpose of illicit trading with the natives, will return to winter whenever the Government orders it; but if the Chief Manager of the Colonies considers it necessary for a ship of war to winter in the Colonies, the Commander will receive orders accordingly.

The Commanders of ships of war will receive orders to capture all foreign ships found in Russian waters.

[The Naval Regulation prohibiting the officers and crews of men-of-war from engaging in trade will be strictly enforced.]

(Signed) Count D. GURIEFF,
Minister of Finance.

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14 No. 3.

[Extract from the "Quarterly Review" of January 1822.]

A VOYAGE OF DISCOVERY INTO THE SOUTH SEA AND BEHRING STRAITS, FOR THE PURPOSE OF EXPLORING A NORTH-EAST PASSAGE, UNDERTAKEN IN THE YEARS 1815–18, AT THE EXPENSE OF HIS HIGHNESS THE CHANCELLOR OF THE EMPIRE, COUNT ROMANZOFF, IN THE SHIP "RURICK," UNDER THE COMMAND OF THE LIEUTENANT IN THE RUSSIAN IMPERIAL NAVY OTTO VON KOTZEBUE. 3 VOLS. LONDON. 1821.

Since the general peace of Europe, and more particularly within the last three years, the Russian Government has been anxiously and eagerly employed in prosecuting discoveries in every part of the globe. In the Southern Ocean her ships have penetrated the fields of ice as far as the

70th parallel of latitude, and discovered, it is said, islands which had escaped the searching eye of Cook; they boast of having rounded the Sandwich-land of that celebrated navigator, and of having ascertained that the Southern Shetland, which was supposed to be a continent connected with it, consists only of numerous groups of small islands. They have sent land expeditions into the unknown regions of Tartary, behind Thibet, and into the interior of the north-western side of North America. Men of science have been commissioned to explore the northern boundaries of Siberia, and to determine points, on that extensive coast, hitherto of doubtful position. In February 1821 Baron Wrangel, an officer of great merit, and of considerable science, left his head-quarters on the Nishney Kolyma, to settle, by astronomical observations, the position of Shalatzkoi-Noss, or the North-east Cape of Asia, which he found to lie in latitude 70° 5′ north, considerably lower than it is usually placed on the maps. Having arranged this point, he undertook the hazardous enterprise of crossing the ice of the Polar Sea on sledges drawn by dogs in search of the land said to have been discovered in 1762 to the northward of the Kolyma. He travelled directly north 80 miles without perceiving anything but a field of interminable ice, the surface of which had now become so broken and uneven as to prevent a further prosecution of his journey. He had gone far enough, however, to ascertain that no such land could ever have been discovered. The idle speculation, therefore, of the junction of Asia with North America, which we always rejected as chimerical, may now be considered as finally set at rest. Indeed, the simple narrative of the voyage performed by Deshnew in the year 1648, from the mouth of the Kolyma to the Gulf of Anadyr, never for a moment left a doubt on our minds of its authenticity.

The reader will recollect our recent statement of that enterprising pedestrian, Captain Cochrane, having reached the Altai Mountains, on the frontier of China. Further accounts from this extraordinary traveller have since reached us; they are dated from the mouth of the Kolyma, and from Okotsk, the former in March, the latter in June, 1821. He had proceeded to the neighbourhood of the North-east Cape of Asia, which he places half a degree more to the northward than Baron Wrangel; but either he had no instrument sufficiently accurate to ascertain its latitude with precision, or, as we have some reason to believe, he states it only from computation; for it does not clearly appear from his letter to us that he was actually on that part of the coast, though, from another letter addressed to the President of the Royal Society of London, it might be conjectured that his information was obtained from observation on the spot. "No land," he says, "is considered to exist to the northward of it. The east side of the Noss is composed of bold and perpendicular bluffs, while the west side exhibits gradual declivities; the whole most sterile, but presenting an awfully magnificent appearance." From the Kolyma to Okotsk he had, he says, a "dangerous, difficult, and fatiguing journey of 3,000 versts," a great part of which he performed, on foot, in seventy days. After such an adventurous expedition from St. Petersburgh to the north-eastern extremity of Siberia, we regret to find that the shores of Kamtchatka are likely to be the boundary of his arduous and perilous enterprise. After gratefully noticing the generosity and consideration which he everywhere experienced at the hands of the Russian Government and of individuals, he adds: "that Government has an expedition in Behring Straits, whose object is to trace the Continent of America to the northward and eastward. I had the same thing pre-

viously in view, but it would be vanity and presumption in me to attempt a task of the kind, while their means are so much superior, and those who are employed on it *authorized* travellers. Thus circumstanced, it can create no surprise that an humble individual like myself should submit to make a sacrifice of private gratification and every prospect of success to a sense of the impropriety of proceeding farther at present, and of the indelicacy which would result from such a step; but, should the commander of the expedition, from any circumstances, desist from the further prosecution of his discoveries, *I shall, in that case, continue my journey eastward,*" the meaning of all which will, we think, be perfectly intelligible from what we are about to state.

The expedition noticed by Captain Cochrane consisted of two ship corvettes which left Spithead in the year 1819, at the same time that the expedition alluded to in our first paragraph proceeded to the Southern Hemisphere. In July 1820 they reached Behring Strait, and were supposed to have passed it in that year; they returned, however, in the winter to some of the Russian settlements on the coast of America, and, as now appears from Captain Cochrane's letter to us, were again in that neighbourhood in June 1821; of their ulterior proceedings no intelligence had reached St. Petersburgh at the period of the latest accounts from that capital. If they should have succeeded in doubling Icy Cape, it is just possible that they may fall in with Captain Parry, provided they are lucky enough to escape the fate of Sir Hugh Willoughby and his unfortunate associates; of such a catastrophe we are by no means sure that they do not run a very considerable risk, from the slight and insufficient manner in which they were fitted out, being, in fact, destitute of every necessary for passing a winter in the Frozen Ocean, and, as we happen to know, in want even of the common implements for encountering the ice; with some of the latter, however, they were supplied from the Dockyard of Portsmouth, on application to the British Government.

We should not be disposed to detract from the merit which, in this instance, would be justly due to the Russian Government, if we could persuade ourselves that the extension of geographical knowledge, for its own sake and the benefit of mankind, was the prime object of this expedition; but when we couple it with the cautious language of Captain Cochrane, and the sudden and unexpected check thrown in the way of his further progress, after reaching the shores of Behring Strait, and also with a contemporaneous Ukase of a most extraordinary nature (if we may credit what appears in the public journals), we cannot but entertain some suspicion that His Imperial Majesty, in his northern expeditions, has been governed by other motives than those of merely advancing the cause of science and discovery.

In this curious manifesto (for such, in effect, it is) the Maritime Powers of Europe and America are given to understand that his Imperial Majesty of Russia has assumed possession of all that portion of the north-west coast of America which lies between the 51st degree of latitude and the Icy Cape, or extreme north; and, moreover, that he interdicts the approach of ships of every other nation to any part of this line nearer than 100 miles. Whether this wholesale usurpation of 2,000 miles of sea-coast, to the greater part of which Russia can have no possible claim, will be tacitly passed over by England, Spain, and the United States, the three Powers most interested in it, we pretend not to know; but we can scarcely be mistaken in predicting that His Imperial Majesty will discover, at no distant period, that he has assumed an authority, and asserted a principle, which he will hardly be permitted to

exercise; and that there is an ancient common law of nations which will not, and cannot, be abrogated by the *sic volo* of a Power of yesterday. It has apparently escaped the recollection of His Imperial Majesty's advisers that if his example were to be followed by the maritime nations of Europe, his own ports would be hermetically sealed, and an end put at once to the assumption of long-appropriated coasts by Russia.

With respect to the legality of taking possession of an unoccupied territory, to the exclusion of the original discoverer, some doubts, we understand, are still entertained among jurists. It is time, we think, to come to a decision one way or another on a point of so much importance.

Let us examine, however, what claim Russia can reasonably set up to the territory in question. To the two shores of Behring Strait, we admit, she would have an undoubted claim, on the score of priority of discovery, that on the side of Asia having been coasted by Deshnew in 1648, and that of America visited by Behring in 1741, as far down as the latitude 59°, and the peaked mountain, since generally known by the name of Cape Fairweather; to the southward of this point, however, Russia has not the slightest claim. The Spaniards visited the northern parts of this coast in 1774, when Don Juan Perez, in the corvette "Santiago," traced it from latitude 53° 53′ to a promontory in latitude 55°, to which he gave the name of Santa Margarita, being the north-west extremity of Queen Charlotte's Island of our charts, and on his return touched at Nootka, about which we were once on the point of going to war.

In the following year the "Santiago" and "Felicidad," under the orders of Don Juan Bruno Heceta and Don Juan de la Bodega y Quadra, proceeded along the north-west coast, and descried in latitude 56° 8′ high mountains covered with snow, which they named Jacinto, and also a lofty cape, in latitude 57° 2′, to which they gave the name of Engaño. Holding a northerly course, they reached latitude 57° 58′, and then returned.

Three years after these Spanish voyages Cook reconnoitred this coast more closely, and proceeded as high up as the Icy Cape. It was subsequently visited by several English ships for the purposes of trade, and though every portion of it was explored with the greatest accuracy by that most excellent and persevering navigator, Vancouver, as far as the head of Cook's Inlet, in latitude 61° 15′, yet, on the ground of priority of discovery, it is sufficiently clear that England has no claim to territorial possession. On this principle, it would jointly belong to Russia and Spain; but on the same principle, Russia would be completely excluded from any portion of it to the southward of 59°. She has, however, been tacitly permitted to form an establishment named Sitka at the head of Norfolk Sound in latitude 57°; and this, apparently, must have tempted her to presume that no opposition would be offered to an extension of territory down to the 51st degree of latitude, which includes all the detailed discoveries of Cook and Vancouver, *i. e.*, New Hanover, New Cornwall, New Norfolk on the main, and the Islands of King George, Queen Charlotte, and Prince of Wales upon the coast.

There is, however, one trifling circumstance of which we are persuaded His Imperial Majesty was ignorant when he issued his
16 sweeping Ukase, namely, that the whole country, from latitude 56° 30′ to the boundary of the United States in latitude 48°, or thereabouts, is now, and has long been, in the actual possession of the British North-west Company. The communication with this vast ter-

ritory is by the Peace River, which, crossing the Rocky Mountains from the westward in latitude 56° north and longitude 121° west, falls into the Polar Sea by the Mackenzie River. The country behind them to the westward has been named by the settlers New Caledonia, and is in extent, from north to south, about 500 miles, and from east to west 300 miles. It is described as very beautiful, abounding in fine forests, rivers, and magnificent lakes, one of which is not less than 300 miles in circumference, surrounded by picturesque mountains, clothed to their very summits with timber trees of the largest dimensions. From this lake a river falls to the westward into the Pacific, either into Port Essington or Observatory Inlet, where Vancouver discovered the mouths of two rivers, one in latitude 54° 15′, the other in 54° 59′. In the summer season it swarms with salmon, from which the natives derive a considerable part of their subsistence. The North-west Company have a post on its borders in latitude 54° 30′ north, longitude 125° west, distant about 180 miles from the "Observatory Inlet" of Vancouver, the head of which lies in latitude 55° 15′ north, longitude 129° 44′ west, where by this time the United Company of the North-west and Hudson's Bay have, in all probability, formed an establishment, and thus opened a direct communication between the Atlantic and the Pacific, the whole way by water, with the exception of a very few miles across the high lands which divide the sources of the rivers and give them opposite directions.

Thus, then, it is obvious that, as we have actual possession of the 6 degrees of coast usurped by Russia in her recent manifesto, her claim to this part is perfectly nugatory. Indeed, as we before observed, the assumption must have been made in utter ignorance of the fact, which is the less surprising, as this part of the world remains as yet a complete blank on our best and latest charts.

It is not easy to conjecture the precise object of Russia in this intended extension of territory on the Continent of North America, unless it be to push along the northern coast as far as Mackenzie's River, which, running at the feet of the Rocky Mountains to the east, would, with the Pacific on the west, afford two excellent barriers to a territory of at least 70,000 square miles, or one-half nearly of all that part of North America in which the fur animals are found, and thus put the Russ-American Company in possession of an almost exclusive monopoly of the trade, as it is well known that, in a few years, the fur-bearing animals will all be destroyed on the eastern side of the Rocky Mountains. In any other view of the subject, it is utterly incomprehensible that the possession of one-tenth part of the habitable globe should not satisfy the ambition, if ambition could ever be satisfied, of one man.

But whatever the object of the Russian Government may be in its expeditions and its Edicts, that of the voyage we are about to notice was purely the promotion of physical science and geographical discovery. We have more than once had occasion to mention, in terms of admiration, the liberal support which an exalted individual of the Russian Empire has always been ready to give to every national scheme for enlarging the sphere of human knowledge; by this munificent patron the present expedition was fitted out. That it failed in the main point was no fault of him who planned it. The commander was recommended by Captain Krusenstern, than whom Russia cannot boast an officer more accomplished in every part of his profession; and if, on his return, he met, as we have heard, with a cool reception in the Imperial circles of St. Petersburgh, it only proves that, amidst an affectation of disappointment, they were not very sorry for the failure of a private enter-

prise which afforded an opportunity of attempting the same thing as a national measure; for the two ships we have mentioned above were dispatched almost immediately after the return of Lieutenant Kotzebue.

It had been the intention of Count Romanzoff to equip an expedition to explore the North-west Passage by Hudson's Bay or Davis' Strait; but on finding that preparations were making in England to attempt it by that route, he determined on prosecuting the discovery from the eastward. For this purpose he caused a ship of 180 tons to be built of fir at Abo, to which he gave the name of "Rurick." Her establishment consisted of Lieutenant Kotzebue, Lieutenant Schischmareff, two mates, M. A. von Chamisso, of Berlin, naturalist, Dr. Eschholz, surgeon, M. Choris, painter, and twenty men; and, to the credit of the commander, it may be mentioned that, after a navigation of three years in very opposite climates, and in so small a vessel, he lost one man only, who left the Baltic in a consumption.

The "Rurick" sailed from Plymouth in October 1815, and on the 28th March had reached that solitary spot in the midst of the Great Pacific which bears the name of Zeapy, but which is better known as Easter Island. Some of the natives swam off to the "Rurick" with yams, taro roots, and bananas, which they gave in exchange for bits of iron hoops. As the boats approached the shore they began to assemble in great numbers, and though unarmed, and apparently desirous of the strangers landing, they were thought to exhibit a terrific and hostile appearance, having painted their faces red, white, and black, and making all manner of violent gestures, accompanied with a most horrible noise. This was soon ascertained to be the case, and the boats were repelled from the shore by volleys of stones. This conduct, so contrary to their former practice, was afterwards fully explained to Lieutenant Kotzebue when at the Sandwich Islands.

An American, who commanded a schooner called the "Nancy," from New London, having discovered a vast multitude of seals on the 17 little uninhabited island of Massafuero, to the west of Juan Fernandez, thought it would be an excellent speculation to establish a Colony there in order to carry on the fishery. For this purpose, having but just sufficient hands to navigate his ship, and there being no anchorage off the island, the wretch (base and brutal beyond the ordinary degree of such characters) proceeded to Easter Island, and landing at Cook's Bay, succeeded in seizing and carrying off twelve men and ten women, to people his new Colony. For the first three days they were confined in irons; when fairly out of sight of land, however, they were released, and the first use made by the males of their liberty was to jump overboard, choosing rather to perish in the waves than to be carried away they knew not whither, or for what purpose. The women, who were with difficulty restrained from following them, were taken to Massafuera; what became of them afterwards Lieutenant Kotzebue does not inform us, and we fear to guess.

On the 16th April they descried a small island, probably the Dog Island of Schouten, but which, differing 22 miles in latitude from that given by him, Kotzebue is pleased to call Doubtful Island; and on the 19th they discovered another small island, covered with majestic cocoanut trees, to which he gave the name of Romanzoff. It had no inhabitants, but boats and deserted huts were visible on the shore. This new discovery so delighted our young navigator that, inconsiderable as he felt it to be, "I would not," he says, "have resigned the pure and heartfelt joy which it gave me for the treasures of the world."

On the 22nd they fell in with another island, in 14° 41′ south longitude, 144° 59′ 20″ west, which was also considered as a new discovery. The truth, however, is that they all belong to those groups whose numbers are not yet ascertained, but which are known by the name of King George's and Palliser's Islands, discovered by Cook, to which also belong what he is pleased to call Rurick's Chain and Krusenstern's Island. The sea, in fact, is here covered with innumerable low rocky islets, formed by the coral animals, the discovery of any individual one of which scarcely seems to merit a distinct claim to notice.

On the 19th May they crossed the chain of Mulgrave's Islands, in 8° 45′ 52″ north, and on the 21st discovered a group of low coral islands, lying in about 11° north and longitude 190°, and separated by a channel which, considering it as a new discovery, they named Kutusoff and Suwaroff; "and I felt myself inexpressibly happy," says Kotzebue, "in being the first who had erected an eternal monument in the South Sea to these two men, who had so highly deserved of their country." Our navigator is somewhat enthusiastic in his language, but we have little doubt that his "new discovery" forms a part of the group long known as Wallis' Islands on the charts.

On the 19th June they reached Avatscha Bay, in Kamtchatka, which they left on the 15th July; on the 20th they descried Behring Islands, and on the 27th were close in with St. Lawrence Island, where they had some communication with the natives, who resembled the people whom Cook found on the shores of Norton Sound and the Aleutian Islands, and were living in tents made of the ribs of whale, and covered with the skin of the morse. Their mode of salutation was somewhat like that of the Esquimaux of Baffin's Bay; "each of them," says Kotzebue, "embraced me, rubbed his nose hard against mine, and ended his caresses by spitting on his hands, and wiping them several times over my face."

On the 30th July they were on the American shore, between Cape Prince of Wales and Garozdeff's Island, which being found to consist of four instead of three, as laid down on Cook's chart, induced Kotzebue to conjecture that the fourth must have subsequently risen out of the sea, "otherwise," says he, "Cook or Clarke would have seen it;" the more probable supposition is that the fog prevented them. At all events, he looked on it as a new discovery, and named it after Ratmaroff, who had been Krusenstern's First Lieutenant on his voyage to Japan. To the northward of Cape Prince of Wales is a long tract of low land, covered with luxuriant verdure, and apparently well inhabited. On landing they found only dogs in the houses, the people having fled; these houses were not merely temporary abodes, but had mud walls; the interior was cleanly and convenient, and divided into a number of apartments by boarded partitions; the floors, raised 3 feet from the ground, were also of wood, which is supplied by the vast quantity of drift brought by the north-east current from the mouths of the rivers of America to the southward of Behring Straits, and thrown on the shores of the straits.

Our navigators soon discovered that they were on an island about 7 miles long, and a mile across in the widest part; beyond it was a deep inlet, running eastward into the continent. On entering this bay, two boats were observed, of the same kind as those made use of in the Aleutian Islands. The appearance of the people in them was extremely filthy and disgusting; their countenances had an expression of fierceness, and all endeavours to induce them to land were unavailing. To this bay, which was not examined, Kotzebue gave the name of his

Lieutenant, Schischmareff, and to the island that of Vice-Admiral Saritschoff.

In proceeding northerly they met with two light boats, the people in which were extremely savage, making hideous grimaces, uttering the most piercing cries, and threatening to hurl their lances. Pointing muskets at them had no effect, which convinced the Russians that they were wholly unacquainted with fire-arms. The land continued low, and trended more to the eastward, when, on the 1st August, the entrance into a broad inlet was discovered, into which the current ran very rapidly. As the interior of this great inlet is the undoubted discovery of Kotzebue, though the opening in the land was before known, it may be proper that the account of it should be given in his own words:

18 I cannot describe the strange sensation which I now experienced at the idea that I perhaps stood at the entrance of the so long sought north-east passage, and that fate had chosen me to be the discoverer. I felt my heart oppressed, and at the same time an impatience which would not let me rest, and was still increased by the perfect calm. To satisfy myself, at least by going on shore, and clearly observing from some eminence the direction of the coast, I had two boats got ready, at which our naturalists were highly delighted. We set out by 2 o'clock in the afternoon; the depth regularly decreased; half-a-mile from shore we had still 5 fathoms. We landed without difficulty near a hill, which I immediately ascended; from the summit I could nowhere perceive land in the strait; the high mountains to the north either formed islands or were a coast by themselves, for that the two coasts could not be connected together was evident, even from the great difference between this very low and that remarkably high land. From the eminence on which I stood I had a very extensive view into the country, which stretched out in a large plain, here and there interrupted by marshes, small lakes, and a river, which flowed, with numerous windings, and the mouth of which was not far from us. As far as the eye could reach everything was green; here and there were flowers in blossom, and no snow was seen but on the tops of the mountains at a great distance; yet one had to dig but half a foot deep to find nothing but frost and ice under this verdant carpet. It was my intention to continue my survey of the coast in the boats, but a number of "baydares" coming to us along the coast to the east withheld me. Five of them, each of them with eight or ten men, all armed with lances and bows, soon landed near us. At the head of each boat was a fox-skin on a high pole, with which they beckoned to us, uttering at the same time the loudest cries. I ordered my crew to be prepared for defence, and went myself, with our gentlemen, to meet the Americans, who on seing us approach sat down like Turks in a large circle on the ground, by which they meant to manifest their friendly intentions; two Chiefs had seated themselves apart from the rest. We entered this circle well armed, and perceived that they had left most of their arms in their boats, but had long knives concealed in their sleeves. Distrust, curiosity, and astonishment were painted on their countenances; they spoke very much, but unfortunately we did not understand a word. To give them a proof of my friendly sentiments I distributed tobacco; the two Chiefs received a double portion, and they were all evidently delighted at this valuable present. Those who had received tobacco first were cunning enough secretly to change their places, in the hopes of receiving a second portion. They prize tobacco highly, and are as fond of chewing as of smoking it. It was a curious sight to see this savage horde sitting in a circle smoking out of white stone pipes with wooden tubes. It is very remarkable that the use of tobacco should already have penetrated into these parts, which no European has ever visited. The Americans receive this, as well as other European goods, from the Tschukutskoi. To the two Chiefs I gave knives and scissors; the latter, with which they seemed to be quite unacquainted, gave them particular pleasure when they remarked that they could cut their hair with them, and immediately they went from hand to hand round the whole circle, each trying their sharpness on his hair. It was probably the first time in their lives that these Americans had seen Europeans, and we reciprocally regarded each other. They are of a middle size, robust make, and healthy appearance; their motions are lively and they seemed much inclined to sportiveness. Their countenances, which have an expression of wantonness, but not of stupidity, are ugly and dirty, characterized by small eyes and very high cheek-bones; they have holes on each side of the mouth in which they wear morse bones, ornamented with blue glass beads, which gives them a most frightful appearance. Their hair hangs down long, but is cut quite short on the crown of the head. Their head and ears are also adorned with beads. Their dresses, which are made of skins, are of the same cut as the Parka in Kamtchatka, only that there it reaches to the feet, and here hardly covers the knee; besides this, they wear pantaloons and small half-boots of seal-skin. (Vol. i, p. 207.)

The latitude of the ship's anchorage was 66° 42′ 30″, longitude 164° 12′ 50″. Nothing but sea was seen to the eastward, and a strong current ran to the north-east, from which circumstances our navigators still cherished a hope of discovering through this inlet a passage into the Frozen Ocean. With this view they spent thirteen days in examining the shores of the inlet, but the only passage out of it was on the south-eastern shore, apparently communicating with Norton Sound, and a channel on the western side opening probably into Schischmareff Bay.

We do not, however, exactly comprehend M. Kotzebue, where he says, "I certainly hope that this sound may lead to important discoveries next year, and though a north-east passage may not with certainty be depended on, yet I believe I shall be able to penetrate much farther to the east, as the land has very deep indentures." Does this mean "farther to the east" within the sound, or to the northward of the sound? If the former, it is quite clear that the examination in that direction was not satisfactory to himself; and knowing, as we do, what mistakes have occurred by the overlapping of points of land when seen only at a distance, we confess that we are not quite satisfied with the examination of the north-east coast to the eastern extremity, when, as appears by the chart, the approach was seldom nearer than 10 miles. Our hope, however, of a clear passage does not lie in Kotzebue's inlet.

On a promontory which juts into the south-eastern part of the bay, the party who had landed made "a singular discovery":

19 We had climbed much about during our stay without discovering that we were on real icebergs. The doctor, who had extended his excursions, found part of the bank broken down, and saw to his astonishment that the interior of the mountain consisted of pure ice. At this news we all went, provided with shovels and crows, to examine this phenomenon more closely, and soon arrived at a place where the back rises almost perpendicularly out of the sea to the height of 100 feet, and then runs off, rising still higher. We saw masses of the purest ice of the height of 100 feet, which are under a cover of moss and grass, and could not have been produced but by some terrible revolution. The place which, by some accident, had fallen in, and is now exposed to the sun and air, melts away, and a good deal of water flows into the sea. An indisputable proof that what we saw was real ice is the quantity of mammoth's teeth and bones which were exposed to view by the melting, and among which I myself found a very fine tooth. We could not assign any reason for a strong smell, like that of burnt horn, which we perceived in this place. The covering of these mountains, on which the most luxuriant grass grows to a certain height, is only half-a-foot thick, and consists of a mixture of clay, sand, and earth, below which the ice gradually melts away, the green cover sinks with it, and continues to grow, and thus it may be foreseen that in a long series of years the mountain will vanish, and a green valley be formed in its stead. By a good observation we found the latitude of the tongue of land 66° 15′ 36″ north. (Vol. i, p. 219.)

This result of "a terrible revolution" is considered by M. Chamisso, the naturalist, "to be similar to the ground ice, covered with vegetation, at the mouth of the Lena, out of which the mammoth, the skeleton of which is now in St. Petersburgh, was thawed." He makes the height of it to be "80 feet at most," and "the length of the profile, in which the ice is exposed to sight, about a musket-shot."

We have little doubt that both Kotzebue and Chamisso are mistaken with regard to the formation of this ice-mountain. The terrible revolution of Nature is sheer nonsense, and the ground ice of the Lena is cast up from the sea, and afterwards buried by the alluvial soil brought down by the floods, in the same manner as the huge blocks which Captain Parry found on the beach of Melville Island; this operation, however, could not take place on the face of the promontory in the tranquil sound of Kotzebue. What they discovered (without suspecting it) was, in fact, a real iceberg, which had been formed in the manner in which we conceive all icebergs are: a rill of water, falling in a little

cascade from a precipitous height, is converted into a sheet of ice in the course of some severe winter; if such a sheet be not entirely melted in the short summer which follows, its volume will necessarily be increased in the ensuing winter, and thus the projection of the promontory, from year to year, will swell till the immense mass, by its own weight, and probably undermined by the constant dashing of the waves, breaks off, and is floated into the ocean. The thin stratum of soil which, in the present instance, covered the upper surface of the iceberg might have been carried upon it by the spreading of the original rill, which, if there be any truth in the miserable print annexed, is seen to trickle down the face of the ice in numerous little streamlets, proceeding from under the soil on the top, and which, when united at the base, form a very pretty river, with trees on its banks.

All our northern navigators affirm that stones, moss, and earth have been observed on the floating icebergs of Davis' Strait and Baffin's Bay. In like manner may the mammoth's teeth have been carried down by the upper stream and inclosed within the ice. Chamisso, however, does not say that these grinders and tusk (which more resemble those of the present race of elephants than such as are usually supposed to belong to the mammoth) were found within the ice, but near the ground ice on the point of land where they had bivouacked, adding that "fossil ivory is found here as in Northern Asia." How the remains of these huge animals came into these high latitudes we leave the geologists to settle.

On quitting this inlet, to which was properly given the name of Kotezbue's Sound (which they did on the 15th August), we naturally expected that, with a fine open sea, without the least appearance of ice on the water or snow on the land, and with the thermometer from 8 to 12 degrees of Réaumur (50 to 59 degrees of Fahrenheit), the "Rurick" would have directed her course to the northward, as far at least as Icy Cape, to which a couple of days would have carried her, instead of which she stood directly across for the Asiatic coast, "because," says Kotzebue, "I wished to become acquainted with its inhabitants, and to compare them with the Americans." This comparison had long before been made, and was certainly no object of the present voyage. Here were no discoveries to be made. He stood, however, over to East Cape, and having passed the remainder of the month of August among the Tchukutskoi, made the best of his way to Ounalaska.

We cannot help thinking that the Lieutenant committed a great error in judgment by spending a fortnight of the most favourable part of the season for making discoveries in these latitudes in Kotzebue's Sound. Had appearances been even more favourable than they were for a communication between this inlet and the Polar Sea, an enterprising navigator would have pushed forward, without a moment's loss of time, along the shore to the extreme north, as the ascertaining of this point, and the trending of the coast to the eastward, were the grand objects of the expedition, the postponing of which to another year, for the prosecution of one of minor importance (which might still have been examined before the winter set in), was, to say the least of it, imprudent. Besides, why did he not winter in Kotzebue's Sound, since it was found to be so perfectly safe, and so much superior to Norton Sound, from which he was instructed to proceed on his discovery the following year? And how are the instructions for wintering in Norton Sound consistent with those which, he afterwards tells us, directed him "to pass the winter months in the neighbourhood of the imperfectly known Coral Islands, to make discoveries

there"? The latter was certainly the more agreeable, and we think he did right in adopting it.

Before we take leave of Behring Strait, we have a few remarks to offer on the information obtained by Kotzebue as connected with the main object of the expedition, and which alone induced Count Romanzoff to cause it to be undertaken. It may be recollected by some of our readers that about the time when our ships were fitting out for the Arctic expedition we were at some pains to assign grounds for the probability of a communication between the Atlantic and Pacific Oceans, on which alone the practicability of a north-west passage could be maintained, and that one of the arguments in favour of the affirmative was that a constant current being known to descend the Welcome into Hudson's Bay, seemed to require a constant current on the opposite side of America through Behring Strait to afford the necessary supply of water. Every circumstance that we inquired into on the side of the Pacific seemed to warrant this conclusion; the drift wood, the retiring of the ice to the northward, the temperature of the water, were all in favour of such a current; and this led to another conclusion, that the two continents of Asia and America could not be joined, as had been fancied, on grounds almost too absurd for serious refutation.

The observations of Kotzebue and Chamisso are highly satisfactory as to the perpetual current which sets to the northward through Behring Strait. They concur in affirming that it is this current which brings such quantities of drift wood (some of it consisting of the trunks of huge trees) to the shores of Saratcheff's Island and Kotzebue's Sound. M. Chamisso says that on "the breaking up of the ice in the Sea of Kamtchatka, the icebergs and fields of ice do not drift, as in the Atlantic, to the south, nor do they drive to the Aleutian Islands, but into the strait to the north;" and Kotzebue asserts that "the direction of the current was *always* north-east in Behring Strait." Again, he says, "the current, according to our calculation, had carried us 50 miles to the north-north-east in twenty-four hours, that is, above 2 miles an hour." When near the Asiatic side of the strait, they find it running with a velocity of not less than 3 miles an hour, and they confidently state that, even with a fresh north wind, it continued to run equally strong from the south. Now, if this happens in the summer season, when the melting of the ice is going on in the Polar Sea, which some would persuade us was the cause of the currents in Hudson's Bay, we have a right to ask them to explain the setting of the water from this melted ice in a contrary direction through Behring Strait.

M. Kotzebue thus concludes:

> The constant north-east direction of the current in Behring Strait proves that the water meets with no opposition, and consequently a passage must exist, though perhaps not adapted to navigation. Observations have long been made that the current in Baffin's Bay runs to the south, and thus no doubt can remain that the mass of water which flows into Behring Strait takes its course round America, and returns through Baffin's Bay into the ocean. (Vol. I, p, 243.)

We cannot omit recurring, on the present occasion, to a subject we have frequently noticed, but which, as we think, has never been satisfactorily accounted for; we mean the vast difference of temperature between the western and the eastern coasts of continents or large islands. Though Humboldt has taken a philosophic view of the subject, and in particular situations has, to a certain degree, explained the cause, yet his theory will not account for this extraordinary difference between two continents, separated only by a strait scarcely twice the width of that between Calais and Dover, which was felt so sensibly

that the crossing of it was like passing from summer into winter. While all is verdure at Cape Prince of Wales, in America, the opposite point of East Cape, in Asia, is covered, as we are told, with "eternal ice." "The vegetation," says Chamisso, "in the interior of Kotzebue's Sound is considerably higher than in the interior of St. Lawrence Bay; the willows are higher, the grasses richer, all vegetation more juicy and stronger." "Ice and snow," says Kotzebue, "have maintained their rule here" (in Asia) "since last year, and in this state we find the old coast; while in America, even the summits of the highest mountains are free from snow; there the navigator sees the coast covered with a green carpet, while here, black mossy rocks frown upon him, with snow and icicles." In fact, a few hours' sailing directly to the westward sunk the thermometer from 59 to 43 degrees of Fahrenheit.

We can readily conceive why at Melville Island, surrounded with eternal ice, the thermometer should descend to 87 degrees below the freezing point, and still lower on the elevated plains in the interior of North America, where half the surface consists of frozen lakes and swamps,* but we cannot comprehend why the same warmth of the Great Pacific, which tempers the rigorous cold of the Frozen Ocean on the American side of Behring Strait, should refuse to mitigate the severity of the weather on the side of Asia, more especially as it appears, from repeated observations made on the present voyage, that the current from the south was equally strong on both sides of the strait.

21 The difference is still greater between the climates of the two shores separated by the Atlantic, but then the sea is much wider. While on the eastern coast of North America all is desolation and sterility, even so low as the 55th degree of latitude, and ice and snow maintain a perpetual existence at the 60th parallel, we find on the coast of Norway (10 degrees higher) that all is life and animation and beauty. "Altengaard," says the celebrated Von Buch, "is a surprising place. It is situated in the midst of a forest of Scotch firs, upon a green meadow, with noble views through the trees of the fiord, with its numerous points projecting one beyond the other into the vast sheet of water, and closed by the plains of Leyland and Langfiord. The surrounding woods are so beautiful and so diversified! We perceive through the boughs on the opposite side of the water the foaming torrent descending from the rocks, and communicating to the saw-mills perpetual motion. It appears, when we enter the wood from the beach, as if we were transported to the park of Berlin." Yet Altengaard is close upon the 70th parallel of latitude.

M. Chamisso seems to think that he has hit upon a more philosophical theory for this great difference of temperature in the same parallels of latitude than those of Humboldt, Von Buch, and Wallenberg, grounded on the sea and land breezes, the monsoons and trade winds; but as his ideas appear to us not a little crude, and as he declines to submit his "new theory to caculations, or try it by the touchstone of facts," it will be sufficient to refer our readers to it (vol. iii, p. 279). We have more respect for his observations on the sensible objects of the Creation, and readily subscribe to the correctness of his views in the following paragraph:

As, on the one hand, in proportion as you go farther in the land towards the north, the woods become less lofty, the vegetation gradually decreases, animals become scarcer, and, lastly (as at Nova Zembla), the reindeer and the *Glires* vanish with the last plants, and only birds of prey prowl about the icy streams for their food, so, on

* Captain Franklin observed it as low as 89 degrees below the freezing point in latitude 64°.

the other hand, the sea becomes more and more peopled. The *Algæ*, gigantic species of *Tang*, form inundated woods round the rocky coasts, such as are not met with in the torrid zone. But the waters swarm with animal life, though all aquatic animals seem to remain in a lower scale than their relatives of the same class on land. The *Medusæ* and *Zoophytes*, *Molusca* and *Crustaceæ*, innumerable species of fish, in incredibly crowded shoals; the gigantic swimming mammalia, whales, physeters, dolphins, morse, and seals, fill the sea and its strand, and countless flights of water-fowls rock themselves on the bosom of the ocean, and in the twilight resemble floating islands. (Vol. iii, p. 306.)

We have little to observe on the manners and character of the people who inhabit the shores of Behring Strait. They have long been supposed, and are now unquestionably ascertained, to belong to that extraordinary race of men generally known by the name of Esquimaux, and who, commencing at the Kolyma, and probably much farther to the westward of Asia, have settled themselves on the sea-coast and islands of that continent, down to the Gulf of Anadyr, the islands of Behring Strait, the Aleutian Islands, the western coast of America from the promontory of Alaska, the northern coast along the Polar Sea, the shores and islands of Hudson's Bay, Baffin's Bay, and Davis' Strait, of Old Greenland and Labrador. Everywhere throughout this vast extent of sea-coast, where the gigantic mammalia above mentioned abound, and from which their food, raiment, dwellings and utensils are derived, they are to be found. Of the deplorable circumstances which may have driven these people (evidently of Tartar origin) to dwell only among regions of "thick-ribbed ice" and snow, and to depend for their daily subsistence almost solely on the sea, history is silent, and it would be vain to form any hypothesis on the subject.

Miserable, however, as their condition appears to be, they are contented with it, and always cheerful, living in small independent hordes, and apparently on terms of a perfect equality. Civil and obliging to strangers, they are courteous to one another, and amidst their train oil and putrid fish carefully observe the decencies of domestic life. Woman here is not degraded from her rank in society by that curse which polygamy has entailed on the whole sex where it exists, whether in savage or half-civilized life. This common feature of Asiatic manners they have happily lost; what is not a little remarkable, however, they have preserved a language of singular complication in its mechanism, which, with some little variety in the dialect, is spoken from the North-east Cape of Asia to the southern point of Old Greenland.

Captain Franklin found that his Esquimaux interpreter from the banks of the Chesterfield Inlet understood the vocabularies composed by the missionaries of Labrador; and Dr. Eschsoltz, surgeon of the "Rurick," was fully convinced of the coincidence of the Aleutian language with that of the Esquimaux. How has this community been maintained through ages between tribes so very widely separated, without any written character, and with little or no intercourse, when among nations apparently in a much higher state of civilization the languages are frequently so different as not to be generally understood? Perhaps the fewness of their wants, and the very limited number of objects of sense by which they are surrounded (requiring but few words to express them), may partly explain a phenomenon so unusual in the history of the species.

It could not be expected that M. Kotzebue should have much new or interesting information to communicate respecting the Aleutian Islands, the coast of California, or the Sandwich Islands, at all of which he touched in his progress towards the tropical islands of the Pacific, where his intention was to pass the winter, and to prepare for a second attempt at northern *discovery*.

22 On the 1st January, 1817, a low woody island was discovered in latitude 10° 8′ north, longitude 189° 4′, reckoning from the meridian of Greenwich, westerly. The natives came off and hovered round the ship in canoes; tall and well-shaped, with high foreheads and aquiline noses, they seemed to differ somewhat from the generality of the South Sea islanders; their hair, neatly tied up, was adorned with wreaths of flowers and coloured shells; and cylinders of green leaves or of tortoise-shells, 3 inches in diameter, hung from their ears. Two or three days afterwards they fell in with a chain of islands extending from latitude 6° to latitude 12°, longitude 187° to longitude 193° west, or rather a succession of groups, each consisting of a circular reef of coral rocks, out of which, at irregular distances, rose a number of small flat islands, richly covered with the bread-fruit, the pandanus, and cocoa-nut trees. Captain Krusenstern claims for Lieutenant Kotzebue the merit of having first discovered these groups; but we can scarcely permit ourselves to doubt that they are the same which were seen by Captain Marshall in the "Scarborough" in 1788, and by the "Nautilus" in 1799, and named on the charts the Nautilus, the Chatham, and Calvert's Islands. We readily admit, however, that "if Lieutenant Kotzebue be not the first discoverer of these islands, he is, at all events, the first who has made us acquainted with their true position;" and we are disposed to allow him the further merit of having thrown much additional light on the nature and formation of those singular coral groups which rise out of the Pacific in circular chains like *fairy rings* in a meadow, almost through its whole extent from east to west, and from the 30th parallel of northern to the same parallel of southern latitude.

It has long been known that the upper surface of these islands, usually known by the general name of Coral Rocks, is composed of calcareous fragments of a great variety of forms, the production of marine animals, and since the voyages of Cook, Flinders, D'Entrecasteaux, and others, it has been as generally supposed that these minute creatures began their wonderful fabrics at the very depth of the ocean, building upwards from the bottom, and that each generation, dying in its cells, was succeeded by others, building upon the labours of their predecessors, and thus rising in succession till they reached the surface. This was surmised to be the process from the circumstance of the sea being found so deep close to the external side of the reef as frequently to be unfathomable. It now appears that this is not precisely the case.

The facility with which the little vessel of Kotzebue entered through the open spaces in the surrounding reef or dam into the included lagoon enabled M. Chamisso to inspect more narrowly the nature of these extraordinary fabrics, and to give a more distinct and intelligible account of their origin and progress. From the circumstance of their being grouped only in certain spots of the Pacific, and always in an united though irregular chain, generally more or less approaching to a circle, he was led to conclude that the coral animals lay the foundation of their edifices on shoals in the ocean, or perhaps, more correctly speaking, on the summits of those submarine mountains which advance sufficiently near the surface to afford them as much light and heat as may be necessary for their operations.

The extreme depth at which they can perform their functions has not yet been ascertained, but it was found, on the late voyage of discovery, that in Baffin's Bay marine animals existed at the depth of 1,000 fathoms, and in a temperature below the freezing point. The outer edge of the reef exposed to the surf is the first that shows itself above water, and consists of the largest blocks of coral rock, composed of

madrepores mixed with various shells and the spines of the sea hedgehog, which break into large tablets, and are so compact as to sound loudly under the hammer. On the sloping side of the inner ridge or reef the animals discovered in the act of carrying on their operations were the *Tubipora musica*, the *Millepora cærulea*, *Distichopora*, *Actinias*, and various kinds of *Polypus*. The living branches of the *Lythophytes* were generally attached to the dead stems; many of the latter, however, crumbled into sand, which, accumulating on the inner declivity, constitutes a considerable part of the surface of the new islands.

The ridge or reef, when once above water on the windward side, extends itself by slow degrees till it has surrounded the whole plateau of the submarine mountain, leaving in the middle an inclosed lake into which are passages, more or less deep, communicating with the ocean; the islets formed on the reef or wall are smaller or larger, according to accidental circumstances. Chamisso observed that the smaller species of "corals" had sought a quiet abode within the lagoon, where they were silently and slowly throwing up banks which in process of time unite with the islets that surround them, and at length fill up the lagoon, so that what was at first a ring of islands becomes one connected mass of land. The progress towards a state fit for the habitation of man is thus described by the naturalist:

As soon as it has reached such a height that it remains almost dry at low water at the time of ebb, the corals leave off building higher; sea-shells, fragments of coral, sea-hedgehog shells, and their broken-off prickles are united by the burning sun, through the medium of the cementing calcareous sand, which has arisen from the pulverization of the above-mentioned shells into one whole or solid stone, which, strengthened by the continual throwing up of new materials, gradually increases in thickness, till it at last becomes so high that it is covered only during some seasons of the year by the high tides. The heat of the sun so penetrates the mass of stone when it is dry that it splits in many places and breaks off in flakes. These flakes, so separated, are raised one upon another by the waves at the time of high water. 23 The always active surf throws blocks of coral (frequently of a fathom in length and 3 or 4 feet thick) and shells of marine animals between and upon the foundation stones. After this the calcareous sand lies undisturbed, and offers to the seeds of trees and plants cast upon it by the waves a soil upon which they rapidly grow to overshadow the dazzling white surface. Entire trunks of trees, which are carried by the rivers from other countries and islands, find here at length a resting-place after their long wanderings; with these come some small animals, such as lizards and insects, as the first inhabitants. Even before the trees form a wood, the real sea birds nestle here; strayed land birds take refuge in the bushes, and at a much later period, when the work has been long since completed, man also appears, builds his hut on the fruitful soil formed by the corruption of the leaves of the trees, and calls himself lord and proprietor of this new creation. (Vol. iii, pp. 331–333.)

The reflections of Kotzebue are just and natural:

The spot on which I stood filled me with astonishment, and I adored in silent admiration the omnipotence of God, who had given even to these minute animals the power to construct such a work. My thoughts were confounded when I consider the immense series of years that must elapse before such an island can rise from the fathomless abyss of the ocean and become visible on the surface. At a future period they will assume another shape; all the islands will join, and form a circular slip of earth with a pond or lake in the circle; and this form will again change as these animals continue building, till they reach the surface, and then the water will one day vanish, and only one great island be visible. It is a strange feeling to walk about on a living island, where all below is actively at work. And to what corner of the earth can we penetrate where human beings are not already to be found? In the remotest regions of the north, amidst mountains of ice, under the burning sun of the Equator, nay, even in the middle of the ocean, on islands which have been formed by animals, they are met with. (Vol. ii, p. 36.)

The inhabitants of this group seemed to differ little from those of Polynesia in general. The men were tall and well made; they wore their black hair neatly knotted upon the head, and decorated with wreaths of

flowers, and had cylinders of tortoise-shell, also ornamented with flowers, hanging from the ears. The women were extremely bashful, retiring, and modest. Kotzebue and his associates went through every part of the group of islands without the least apprehension from the natives, whom they invariably found mild, inoffensive, and obliging. "I was unarmed," he says, "for I felt myself quite secure among these kind-hearted children of Nature, who, to amuse me, would play and dance before me." It was evident they had never before seen white men, for, on their first approach, they were dreadfully terrified, and it was some time before they could be prevailed on to visit the ship; the hogs and dogs on board greatly alarmed them, and were considered as huge rats, the only quadrupeds with which they were acquainted.

Among their most useful plants were the cocoa-nut tree, the pandanus, and the bread-fruit, which furnished them with food, raiment, and lodging:

The fruit of the pandanus constitutes in Radack the food of the people. The compound fibrous stone-fruits which compose the conical fruit contain a spicy juice at their basis, the point where they are fixed. To obtain this juice, the fruit is first beaten with a stone, the fibres chewed, and pressed in the mouth. The fruit is also baked in pits, after the manner of the South Sea, not so much to eat it in this state as to prepare "mogan" from it, a spicy dry confectionery, which is carefully preserved as a valuable stock for long voyages. To prepare the "mogan" all the members of one or more families are employed. From the stone-fruits, as they come out of the baking-pit, the condensed juice is expressed by passing them over the edge of a shell, then spread out on a grate covered with leaves, exposed over a slight charcoal fire to the sun, and dried. The thin slices, as soon as they are sufficiently dried, are rolled up tight, and these rolls then neatly wrapped in the leaves of the tree and tied up. The kernel of this fruit is well tasted, but difficult to be obtained, and is often neglected. From the leaves of the pandanus the women prepare all sorts of mats, as well the square ones with elegant borders, which serve as aprons, as those which are used as ship's sails, and the thicker ones for sleeping upon. (Vol. iii, p. 150.)

The naturalist seems to think that these children of Nature were somewhat restrained from the besetting vice of savages, that of appropriating to themselves the property of others, by a person of the name of Kadu, from the reef of Ulea (one of the numerous islets forming the great group of the Carolinas, and distant from this place at least 1,500 miles), and who, though he had never seen an European ship or European man, had heard much of both. This extraordinary character, notwithstanding all the entreaties of his friends, determined to accompany Lieutenant Kotzebue; and when they became enabled to understand each other, they learned from him that having one day left Ulea in a sailing-boat with three of his countrymen, a violent storm arose and drove them out of their course; that they drifted about the open sea for eight months, according to their reckoning by the moon, making a knot on a cord at every new moon. Being expert fishermen, they subsisted entirely on the produce of the sea, and when the rain fell laid in as much fresh water as they had vessels to contain it. "Kadu," says Kotzebue, "who was the best diver, frequently went down to
24 the bottom of the sea, where *it is well known* that the water is not so salt, with a cocoa-nut (*shell*) with only a small opening."*
When these unfortunate men reached the Isles of Radack, however, every hope and almost every feeling had died within them; their sail had long been destroyed, their canoe long been the sport of winds and waves; and they were picked up by the inhabitants of Aur in a state of insensibility. Three or four years had elapsed since their arrival, and

* Chamisso states this circumstance more cautiously; he brought up *cooler* water (he says) which, "*according to their opinion*," was likewise less salt.

adu had taken a wife by whom he had one child, notwithstanding hich he came up to Kotzebue, and, with a firm and determined voice id look, said, "I will remain with you wherever you go." His friends ideavoured to dissuade him, and even to drag him from the ship; but s resolution was not to be shaken, and when the time of departure rived, he took an affecting leave of his friends and family, distributed is little property among them, and embarked on board the "Rurick."

Before they left the group, however, Kotzebue thought right to tell im that he had no intention of revisiting the Islands of Radack, and iat he was about to proceed on a long and fatiguing voyage. "He irew his arms around me," said Kotzebue, "vowed to stay with me till eath, and nothing remained for me but to keep him, and with a firm etermination to provide for him as a father." M. Chamisso has given veral anecdotes illustrative of the mild and amiable character of adu, who soon became a great favourite of the officers and men of the Rurick." "We once only," says the naturalist, "saw this mild man ngry;" and this was occasioned by some of the crew having removed a ttle collection of stones which he had formed to a place where he could ot find them. He continued during the voyage to conduct himself ith great propriety; but on the return of the ship to the same group, e as suddenly changed his mind of continuing with Kotzebue as he ad previously formed that resolution, and determined to abide with is friends; the account which he received of the melancholy state of is little daughter after his departure was supposed to be the motive this change; the reason assigned by himself, however, was that he ished to superintend the new plants and animals which had been col-cted for the use of the natives at the Sandwich Islands and other laces visited by the "Rurick."

The "Rurick" sailed about the middle of March to renew her north-n discovery, and on the 13th April had reached the latitude 44° 30′, a frightful day," says Kotzebue, "which *blasted* all my fairest *hopes*." tremendous storm had nearly overwhelmed his little vessel, and he as thrown with such violence against a projecting corner of his cabin hat he was obliged to keep his bed for several days. On the 24th the hip reached Ounalaska, and on the 29th June, having received on oard fifteen Aleutians, proceeded to the northward. On the 10th July ney came in sight of St. Lawrence Island. Here Kotzebue inquired of ie natives whether the ice had long left their shores. The answer was, Only within the last three days." "My *hope*, therefore," he observes, of penetrating Behring Straits was *blasted*" (the Lieutenant, or his anslator, has no great choice of words), "as I could not expect that ie sea would be cleared of ice for fourteen days." He stood, however, the northward, and at midnight "perceived," he says, "to their ter-r firm ice, which extended as far as the eye could see to the north-east, id then to the north, covering the whole surface of the ocean."

Here he made up his mind, if that had not already been done, to lay side all further attempt at discovery, and return to the more agree-ble groups of coral islands. He thus states his case:

My melancholy situation, which had daily grown worse since we had left Ouna-ska, received here the last blow. The cold air so affected my lungs that I lost my eath, and at last spasms in the chest, faintings, and spitting of blood ensued. I ow for the first time perceived that my situation was worse than I would hitherto elieve, and the physician seriously declared to me that I could not remain near the e. It cost me a long and severe contest; more than once I resolved to brave death id accomplish my undertaking, but when I reflected that we had a difficult voyage our own country still before us, and perhaps the preservation of the "Rurick" and ie lives of my companions depended on mine, I then felt that I must suppress my

ambition. The only thing which supported me in this contest was the conscientious assurance of having strictly fulfilled my duty. I signified to the crew, in writing, that my ill-health obliged me to return to Onnalaska. The moment I signed the paper was the most painful in my life, for with this stroke of the pen I gave up the ardent and long-cherished wish of my heart. (Vol. ii, p. 176.)

We have little more to offer on this unsuccessful voyage; but it appears to us that its abrupt abandonment was hardly justified under the circumstances stated. It would not be tolerated in England that the ill-health of the commanding officer should be urged as a plea for giving up an enterprise of moment, while there remained another officer on board fit to succeed him. But the great error, in our opinion, was committed in the first attempt. Had Kotzebue fortunately pushed on to the northward the preceding year, when the sea was perfectly open, and before his people had tasted the soft luxuries of the coral islands, he would unquestionably have succeeded in solving the problem as to the extreme north-west point of America, as Baron Wrangel has done that of the north-east point of Asia, and this would have been something; but we rather suspect that when the physician warned him against approaching the ice, the caution was not wholly disinterested on his part, and that the officers and men, like the successors of the immortal Cook, had come to the conclusion that "the longest way about was the nearest way home."

We cannot close this article without animadverting on the careless manner in which the "Voyage" has been "done into English." The naturalist, Chamisso, in seeming anticipation of what would happen, has entered his caveat against "translations of which he cannot judge," and "recognizes only the German text." In truth, he will find here more than enough to justify his precautions. The present translator joins to a style at once bald and incorrect a deplorable ignorance of his subject; hence the volume abounds in errors of the grossest kind. Many of them may unquestionably be attributed to the undue haste with which the work was produced; but surely it can never be worth the while of any respectable publisher to run a race with the Bridge Street press, the monthly crudities of which, though they may precede, cannot possibly supersede, translations made by competent persons, and brought out in a manner correspondent to the merit of the original works.

No. 4.

[Extract from the "North American Review" of October 1822.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING THE INFORMATION REQUIRED BY A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE 16TH FEBRUARY LAST, IN RELATION TO CLAIMS SET UP BY FOREIGN GOVERNMENTS TO TERRITORY OF THE UNITED STATES UPON THE PACIFIC OCEAN, NORTH OF THE 42ND DEGREE OF LATITUDE, &C. APRIL 17, 1822.

The measures lately adopted by the Russian Government, in relation to the north-western coast of the American Continent, are of so extraordinary a character that we cannot refrain from examining the subject, and offering such comments as it naturally demands. We are sensible that a discussion relative to a country so remote, having within its limits but few objects to excite the curiosity, and only connected with the civilized world by an extremely limited commerce, might not ordinarily awaken much general interest. But it is also well known that particular causes have heretofore drawn to it the attention both of

statesmen and philosophers, and we are not sure that the attempts to discover a north-west passage, or the dispute respecting Nootka Sound, involved more serious consequences than the efforts now making by Russia, in that quarter of the globe, to monopolize commerce and usurp territory.

A trade to the north-western coast of America, and the free navigation of the waters that wash its shores, have been enjoyed as a common right by subjects of the United States and of several European Powers, without interruption, for nearly forty years. We are by no means prepared to believe, or admit, that all this has been on sufferance merely; and that the *rights* of commerce and navigation in that region have been vested in Russia alone. If such be the fact, however—if Russia has always possessed the right to interdict this trade, we cannot but wonder at her forbearance in permitting it to be carried on for so long a time, manifestly to the injury of her own subjects. Had a monopoly of the fur trade, which Russia now aims at, been secured to the "Russian-American Company" thirty years ago, that Company, with any prudent management, might have attained at the present time the second rank, for wealth and power, in the commercial world, and been worthy not only of Imperial protection, but of Imperial attributes.

A short account of this trade, and sketch of its present state, may assist our readers in forming some estimate of the importance of this subject to the United States, merely in a commercial view, and independent of any question of territorial rights which it may be thought to involve. The third voyage of Cook having made us acquainted with countries of which little was before known, several enterprising individuals, allured by the prospect of a profitable traffic with the natives, engaged in voyages to the north-west coast as early as 1784. The citizens of the United States, then just recovering from the entire prostration of their commerce by the revolutionary war, and possessing more enterprise than capital, were not slow in perceiving the benefits likely to result from the participation in a branch of trade where industry and perseverance could be substituted for capital. In 1787 two vessels were fitted out in the port of Boston, the "Columbia," of 300 tons, and the "Washington," of 100 tons, burthen; the former commanded by Mr. John Kendrick, the latter by Mr. Robert Grey, since known as the first navigator who entered the River Columbia. Other vessels followed shortly after, and those entrusted with the management of these voyages soon acquired the necessary local knowledge to insure a successful competition with the traders of other nations (mostly English) who had preceded them. The habits and ordinary pursuits of the New Englanders qualified them in a peculiar manner for carrying on this trade, and the embarrassed state of Europe, combined with other circumstances, gave them, in the course of a few years, almost a monopoly of the most lucrative part of it. In 1801, which was perhaps the most flourishing period of the trade, there were sixteen ships on the north-west coast, fifteen of which were Americans, and one English. Upwards of 18,000 sea-otter skins, besides other furs, were collected for the China market in that year by the American vessels alone. Since that time the trade has declined, the sea-otter having become scarce, in consequence of the impolitic system pursued by the Russians, as well as by the natives, who destroy indiscriminately the old and the young of this animal, which will probably in a few years be as rarely met with on the coast of America as it is now on that of Kamtchatka and among the Aleutian Islands, where they abounded when first discovered by the Russians. There are at the present time absent from the United States fourteen

vessels engaged in this trade, combined with that to the Sandwich Islands, which for several years past has been carried on to a considerable extent in sandal wood. These vessels are from 200 to 400 tons burthen, and carry from twenty-five to thirty men each, and they are usually about three years in completing a voyage. After exchanging with the natives of the coast for furs such part of their cargoes as is adapted to the wants or suited to the fancy of these people, the ships return to the Sandwich Islands, where a cargo of sandal wood is prepared, with which, and their furs, they proceed to Canton, and return to the United States with cargoes of teas, &c. The value at Canton of the furs, sandal wood, and other articles carried thither the last season by American vessels engaged in the trade was little short of 500,000 dollars. When it is considered that a comparatively small capital is originally embarked, that a great part of the value arises from the employment of so much tonnage, and so many men, for the long time necessary to perform a voyage, and that Government finally derives a revenue from that portion of the proceeds which is brought home in teas, equal to at least to the amount invested at Canton, we believe this trade will be thought too valuable to be quietly relinquished.

27

The publication of which the title is prefixed to this article contains certain documents, communicated by the President of the United States to Congress at their last Session. The most important of them is the Ukase issued by the Emperor of Russia in September 1821, and made known to our Government in February of the present year. We shall devote most of this article to some remarks on this Russian Edict, and the correspondence in relation to it between Mr. Adams, Secretary of State, and the Chevalier de Poletica, the Russian Minister to the United States.

The prohibitions and regulations contained in this Edict are very minute and particular, occupying nearly ten pages of a closely printed pamphlet, and divided into sixty-three sections; in the first and second of which, however, will be found the pith and marrow of the subject. These, together with the introduction, we transcribe. The others are of minor importance. They, however, authorize the forcible seizure, by Russian ships of war, by vessels belonging to the Company, or by individuals in their service, of all foreign vessels which may be *suspected* of violating these regulations, and direct that they be sent to the port of St. Peter and St. Paul, in Kamtchatka, for trial; and, if condemned, the crews are to be sent across Siberia, to some port on the Baltic, and permitted to return to their own country, if they can find the means.

EDICT OF HIS IMPERIAL MAJESTY, AUTOCRAT OF ALL THE RUSSIAS.

The Directing Senate maketh known unto all men: Whereas, in an Edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hand, it is thus expressed: "Observing, from reports submitted to us, that the trade of our subjects on the Aleutian Islands and on the northwest coast of America appertaining unto Russia is subjected, because of secret and illicit traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific regulations, which are hereto attached.

"In forwarding these regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution.

(Countersigned) "Count D. GURIEF,
"*Minister of Finances.*"

It is therefore decreed by the Directing Senate that His Imperial Majesty's Edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

The original is signed by the Directing Senate.

On the original is written, in the handwriting of His Imperial Majesty, thus:

Be it accordingly, ALEXANDER.

Section 1. The pursuits of commerce, whaling, and fishery, and of all other industry, on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring Straits, to the 51st degree of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Urup, viz., to the 45° 50′ northern latitude, is exclusively granted to Russian subjects.

Sec. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, *but also to approach them within less than 100 Italian miles*. The transgressor's vessel is subject to confiscation, along with the whole cargo.

We doubt if pretensions so extravagant and unfounded—so utterly repugnant to the established laws and usages of nations, have been set up by any Government, claiming rank among civilized nations, since the dark ages of ignorance and superstition, when a Bull of the Holy See was supposed to convey the rights of sovereignty over whole continents, even in anticipation of their discovery. Russia claims the exclusive possession of the whole American Continent north of the 51st degree of latitude. We say the whole continent, for we search in vain for limits except the latitude of 51° on the south, and 'Behring Straits' on the north. It is just possible that "His Imperial Majesty" may be content, *for the present*, to take the Rocky Mountains for his eastern boundary, though we are not sure, but we do him injustice in ascribing to him such narrow views. Even the attempts of Spain to usurp the exclusive navigation of the South Sea in the vicinity of her American possessions, arbitrary as they were, and violating as they did the indisputable rights of other nations, must, when examined with reference to the different periods when they were made, yield in absurdity to the claims now before us. We cannot forbear expressing our surprise that, in this enlightened age, when the general principles of national rights have been clearly defined, and are well understood, a Government, possessing the highest influence in the political world, and constantly referred to as the arbiter of national disputes, should prefer claims which can only be supported by the extraordinary notion of considering the Pacific Ocean a "close sea," where it is at least 4,000 miles across.

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Mr. Adams, in answer to a note from M. de Poletica, accompanying a printed copy of the Russian Edict, expresses the surprise of the American Government at the extraordinary claims it set forth, and after alluding to the friendly relations which have always existed between the two nations, says, "It was expected before any act which should define the boundaries between the territories of the United States and Russia on this continent, that the same would have been arranged, by Treaty, between the parties." We think this expectation a very reasonable one, and the different course which Russia has chosen to pursue evinces either ignorance of her own rights, or a disregard to those of others. Mr. Adams inquires if M. de Poletica is "authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and regulations contained in the Edict." M. de Poletica, in reply, declares himself "happy to fulfil this task." But as this letter purports to be a com-

plete vindication of the claims of Russia, we prefer giving it entire, and shall follow it with some comments on the "historical facts" it contains, and the inferences which are drawn from them, and add some facts within our own knowledge which may have a bearing on the subject.

THE CHEVALIER DE POLETICA TO THE SECRETARY OF STATE.

[Translation.]

WASHINGTON, *February 28, 1822.*

SIR: I received two days since the letter which you did me the honour to address to me on the same day, by order of the President of the United States, in answer to my note of the 11th current, by which I discharged the orders of my Government in communicating to you the new Regulation adopted by the Russian-American Company, and sanctioned by His Majesty the Emperor, my august Sovereign, on the 4th (16th) September, 1821, relative to foreign commerce in the waters which border upon the establishments of the said Company, on the north-west coast of America.

Readily yielding, sir, to the desire expressed by you in your letter of knowing the rights and principles upon which are founded the determinate limits of the Russian possessions on the north-west coast of America, from Behring Strait to the 51st degree of north latitude, I am happy to fulfil this task by only calling your attention to the following historical facts, the authenticity of which cannot be contested.

The first discoveries of the Russians on the north-west continent of America go back to the time of the Emperor Peter I. They belong to the attempt, made towards the end of the reign of this great Monarch, to find a passage from the Icy Sea into the Pacific Ocean.

In 1728 the celebrated Captain Behring made his first voyage. The recital of his discoveries attracted the attention of the Government, and the Empress Anne entrusted to Captain Behring (1741) a new expedition in these same latitudes. She sent with him the Academicians Gmelin, Delile de la Crayere, Müller, Steller, Fisher, Krasilnicoff, Kræcheninicoff, and others, and the first chart of these countries which is known was the result of their labours, published in 1758. Besides the strait which bears the name of the chief of this expedition, he discovered a great part of the islands which are found between the two continents; Cape or Mount St. Elias, which still bears this name upon all the charts, was so called by Captain Behring, who discovered it on the day of the feast of this saint; and his second, Captain Tchiricoff, pushed his discoveries as far as the 49th degree of north latitude.

The first private expeditions undertaken upon the north-west coast of America go back as far as the year 1743.

In 1763 the Russian establishments had already extended as far as the Island of Kodiak (or Kichtak). In 1778 Cook found them at Ounalaska, and some Russian inscriptions at Kodiak. Vancouver saw the Russian establishments in the Bay of Kinai. In fine, Captains Mirs, Portlock, La Peyrouse unanimously attest the existence of Russian establishments in these latitudes.

If the Imperial Government had, at the time, published the discoveries made by the Russian navigators after Behring and Tchiricoff (viz., Chlodiloff, Screbreanicoff, Krassilnicoff, Paycoff, Poushcareff, Lazareff, Medwedeff, Solowieff, Lewasheff, Krenitsin, and others), no one could refuse to Russia the right of first discovery, nor could even any one deny her that of first occupation.

Moreover, when D. José Martinez was sent, in 1789, by the Court of Madrid, to form an establishment in Vancouver's Island, and to remove foreigners from thence under the pretext that all that coast belonged to Spain, he gave not the least disturbance to the Russian Colonies and navigators; yet the Spanish Government was not ignorant of their existence, for this very Martinez had visited them the year before. The Report which Captain Malespina made of the results of his voyage proves that the Spaniards very well knew of the Russian Colonies, and in this very Report it is seen that the Court of Madrid acknowledged that its possessions upon the coast of the Pacific Ocean ought not to extend to the north of Cape Blanc, taken from the point of Trinity, situated under 42° 50′ of north latitude.

When, in 1799, the Emperor Paul I, granted to the present American Company
29 its first Charter, he gave it the exclusive possession of the north-west coast of America which belonged to Russia, from the 55th degree of north latitude to Behring Strait. He permitted them to extend their discoveries to the south, and there to form establishments, provided they did not encroach upon the territory occupied by other Powers.

This Act, when made public, excited no claim on the part of other Cabinets, not even on that of Madrid, which confirms that it did not extend its pretensions to the 60th degree.

When the Government of the United States treated with Spain for the cession of a part of the north-west coast, it was able to acquire by the Treaty of Washington the

ht to all that belonged to the Spaniards north of the 42nd degree of latitude; but s Treaty says nothing positive concerning the northern boundary of this cession, ause, in fact, Spain well knew that she could not say that the coast as far as the h degree belonged to her.

rom this faithful exposition of known facts it is easy, Sir, as appears to me, to w the conclusion that the rights of Russia to the extent of the north-west coast, cified in the Regulation of the Russian American Company, rest upon the three es required by the general law of nations and immemorial usage among nations, t is, upon the title of first discovery; upon the title of first occupation; and, in last place, upon that which results from a peaceable and uncontested possession more than half a century; an epoch, consequently, several years anterior to that en the United States took their place among indpendent nations.

t is, moreover, evident that if the right of the possession of a certain extent of north-west coast of America, claimed by the United States, only devolves upon m in virtue of the Treaty of Washington of the 22nd February, 1819, and I lieve it would be difficult to make good any other title, this Treaty could not con- upon the American Government any right of claim against the limits assigned to Russian possessions upon the same coast, because Spain herself had never pre- ded to similar right.

The Imperial Government, in assigning for limits to the Russian possessions on the rth-west coast of America, on the one side Behring Strait, and on the other the 51st gree of north latitude, has only made a moderate use of an incontestable right, ce the Russian navigators, who were the first to explore that part of the American ntinent in 1741, pushed their discovery as far as the 49th degree of north latitude. e 51st degree, therefore, is no more than a mean point between the Russian estab- hment of New Archangel, situated under the 57th degree, and the American Colony the mouth of the Columbia, which is found under the 46th degree of the same itude.

All these considerations united have concurred in inspiring the Imperial Govern- nt with an entire conviction that, in the last arrangements adopted in Russia ative to her possessions on the north-west coast, the legitimate right of no foreign wer has been infringed. In this conviction the Emperor, my august Sovereign, s judged that his good right, and the obligation imposed by Providence upon him protect with all his power the interests of his subjects, sufficiently justified the asures last taken by His Imperial Majesty in favour of the Russian-American Com ny, without its being necessary to clothe them with the sanction of Treaties.

I shall be more succinct, Sir, in the exposition of the motives which determined e Imperial Government to prohibit foreign vessels from approaching the north- st coast of America belonging to Russia, within the distance of at least 100 Italian les. This measure, however severe it may at first view appear, is after all but measure of prevention. It is exclusively directed against the culpable enterprises foreign adventurers, who, not content with exercising upon the coasts above entioned an illicit trade very prejudicial to the rights reserved entirely to the ssian-American Company, take upon them besides to furnish arms and ammunition the natives in the Russian possessions in America, exciting them likewise in every nner to resistance and revolt against the authorities there established.

The American Government doubtless recollects that the irregular conduct of these venturers, the majority of whom was composed of American citizens, has been the ject of the most pressing remonstrances on the part of Russia to the Federal Gov- nment from the time that Diplomatic Missions were organized between the two untries. These remonstrances, repeated at different times, remain constantly with- t effect, and the inconveniencies to which they ought to bring a remedy continue increase.

The Imperial Government, respecting the intentions of the American Government, s always abstained from attributing the ill-success of its remonstrances to any her motives than those which flow, if I may be allowed the expression, from the ry nature of the institutions which govern the national affairs of the American deration. But the high opinion which the Emperor has always entertained of the ctitude of the American Government cannot exempt him from the care which his nse of justice towards his own subjects imposes upon him. Pacific means not ving brought any alleviation to the just grievances of the Russian American Com- ny against foreign navigators in the waters which environ their establishments on e north-west coast of America, the Imperial Government saw itself under the cessity of having recourse to the means of coercion, and of measuring the rigour cording to the inveterate character of the evil to which it wished to put a stop. t it is easy to discover, on examining closely the last Regulation of the Russian- nerican Company, that no spirit of hostility had anything to do with its formation. e most minute precautions have been taken in it to prevent abuses of authority on the part of Commanders of Russian cruizers appointed for the execution of said Regulation. At the same time, it has not been neglected to give all the timely publicity *necessary to put* those on their guard against whom the *easure is aimed.*

Its action, therefore, can only reach the foreign vessels which, in spite of the notification, will expose themselves to seizure by infringing upon the line marked out in the Regulation. The Government flatters itself that these cases will be very rare; if all remain as at present appears, not one.

I ought, in the last place, to request you to consider, Sir, that the Russian possessions in the Pacific Ocean extend, on the north-west coast of America, from Behring Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th degree. The extent of sea of which these possessions from the limits comprehends all the conditions which are ordinarily attached to *shut seas* ("mers fermées"), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities.

The Emperor, my august Sovereign, sets a very high value upon the maintenance of the relations of amity and good understanding which have till now subsisted between the two countries. The dispositions of His Imperial Majesty in this regard have never failed appearing at all times when an occasion has presented itself in the political relations of the United States with the European Powers, and surely in the midst of a general peace Russia does not think of aiming a blow at the maritime interests of the United States; she who has constantly respected them in those difficult circumstances in which Europe has been seen to be placed in the latter times, and the influence of which the United States have been unable to avert.

I have, &c.

PIERRE DE POLETICA.

Before proceeding to remark on this letter, we must call the particular attention of our readers to the conformation of the west coast of America, within the disputed limits, by which the confusion and apparent contradictions in which the subject has been involved may be avoided. We further desire that our conceptions of the question really at issue may be distinctly understood. It is not, we apprehend, whether Russia has any Settlements that give her territorial claims on the Continent of America. This we do not deny—but it is *whether the location of those Settlements and the discoveries of her navigators are such as they are represented to be; whether they entitle her to the exclusive possession of the whole territory north of 51°, and to sovereignty over the Pacific Ocean beyond that parallel.* The extremity of the Peninsula of Alaska is in about the latitude 55° and longitude 162° west from Greenwich. On the western side of the peninsula the land runs nearly north, to the Straits of Behring; on the eastern side it tends northward and eastward to the entrance of Cook's River, in latitude 59°, longitude 152°, and Prince William's Sound, in latitude 60° 30′, longitude 146°; thence east, southerly to the Behring Bay of Cook and Vancouver; and more southerly to Cross Sound and Norfolk Sound, the latter in latitude 57°, longitude 135°. Cape Scott in the latitude of 51°, to which the Russian claim now extends, is in the longitude of 128°; making a difference between that and the points of Alaska of 34°, or more than 1,200 miles. The coast between these two points forms an immense bay, which extends north beyond the 61st degree of latitude, and is nearly twice as broad across its entrance as the Bay of Bengal. The Aleutian Islands, lying southward of Alaska, are scattered between the Continents of Asia and America, and extend to the latitude 51°. The large Island of Kodiak, on which are the principal Russian Settlements, lies near the eastern side of the Peninsula of Alaska, between the parallels of 57° and 58°. Having no disposition to question the claims of Russia, where they have a plausible foundation, we shall, in this discussion, fix the boundary at Behring Bay, in latitude 59° 30′, and longitude 140°; and leaving her in undisputed possession of that bay, and the whole country north-westward of it, shall confine our remarks to that part of the coast lying to the southward and eastward of it; which we undertake to

prove was first seen and explored by the navigators of other nations, and that a commerce was carried on by them with the native inhabitants, long before the Russians had any intercourse with them whatever.

According to M. de Poletica the "rights of Russia" to this coast rest upon "three bases," viz., "the title of first discovery," "the title of first occupation," and "upon that which results from a peaceable and uncontested possession of more than half a century." We shall examine these "titles" in the order in which they are placed.

It is not pretended that Behring extended his excursions beyond the bay which bears his name, and his discoveries are therefore irrelevant to the discussion; but the assertion that "his second captain, Tchiricoff (in 1741), pushed his discoveries to the 49th degree of north latitude," is deserving particular consideration, because it will be found that the asserted Russian "title of first discovery," rests wholly on the voyage of this navigator. We have not met with any account of this voyage from which the slightest inference can be drawn that Tchiricoff saw the American coast in the parallel of 49°; but, on the contrary, all the accounts which we have seen concur in fixing the southern limits of his *continental* researches north of 55°. The earliest account we can find is in a Memoir of Philippe Buache, read to the French Academy in 1752, and published at Paris in 1753. This Memoir is accompanied by a Chart, prepared by M. de Lisle, formerly First Professor of Astronomy in the Imperial Academy of St. Petersburgh, and brother to Delile de la Croyere, one of the Academicians who accompanied Tchiricoff

On this Chart is marked the route of that navigator from Kam-
31 tchatka to America, and of his return. It appears from this that they discovered the coast of America on the 15th July, 1741, about the latitude 55° 30′, and sent a boat, with the pilot Dementiew and ten men, with orders to land. This boat not returning after several days a second one was sent, with four men, who shared the fate of the first, and nothing was heard of them till 1822, when they were fortunately discovered by M. de Poletica in the latitude of 48° and 49°! After waiting in vain for the return of his boats, Tchiricoff left the coast of America, and on his return discovered land in latitude 51°. This could be no other than the southernmost of the Aleutian Islands; and the circumstance of the natives coming off to him in *skin* canoes confirms this supposition, as no canoes of that description have ever been found on the American coast in that parallel. The authenticity of this account of Tchiricoff's voyage can hardly be questioned. It was published a few years only after his return, and it is stated that M. de Lisle had received the manuscripts of his brother, who died at Kamtchatka shortly after the termination of the voyage. Possibly this Chart and Memoir may not have met the eye of M. de Poletica, or he would not have asserted that "the first Chart of these countries was published in 1758." Müller, who was in the expedition on board Behring's ship, gives nearly the same account as the above of Tchiricoff's voyage, placing his land-fall in latitude of 56°. Cox, Burney, and all writers on this subject whom we have met with have adopted these accounts, and we cannot even conjecture on what authority M. de Poletica pushes Tchiricoff's discoveries to 49°.

The formidable host of navigators cited by M. de Poletica does not appal us. If our readers will look into "Cox's Account of the Russian Discoveries," and examine the relation there given of most of these voyages, they will find it difficult to believe that any discoveries resulting from them remain unpublished, or that they have any bearing on the question before us. There is not the slighest probability that any *of* those navigators penetrated so far eastward as Behring Bay. In

support of this opinion we have the authority of the learned M. Fleurieu, the most intelligent writer on this subject of the last century. In his "Historical Introduction" to the voyage of Marchand, published in 1801, speaking of the Russian navigators alluded to by M. de Poletica, he says, "the principal object of all these voyages was the examination of that long archipelago known under the collective name of the Aleutian or Fox Islands, which the Russian Charts divide into several archipelagoes under different names; of all that part of the coast which extends east and west under the parallel of 60°, and comprehends a great number of islands situated to the south of the mainland, some of which were visited and others only perceived by Behring; lastly, of the Peninsula of Alaska, and of the lands situated to the *north* of this peninsula as far as the 70th degree. It is on these Aleutian Islands and on upwards of 300 leagues of the coast, *which extends beyond the Polar Circle*, that the indefatigable Russians have formed those numerous Settlements," &c. From all these facts we feel fully warranted in the conclusion that no Russian navigator, except Tchiricoff, had seen the coast *eastward of Behring Bay*, previous to the Spanish voyages of Perez in 1774; Heceta, Ayala, and Quadra in 1775; that of Cook in 1778; or even so late as 1788, when it was first visited by vessels from the United States. Thus much for the Russian "title of first discovery;" that of "first occupation" comes next.

We have no doubt but Russian fur-hunters formed establishments at an early period on the Aleutian Islands and neighbouring coast of the continent; but we are equally certain that it can be clearly demonstrated that no Settlement was made eastward of Behring Bay till the one at Norfolk Sound in 1799. The statements of Cook, Vancouver, Mears (Mirs), Portlock, and La Pérouse prove what we readily admit that, previous to 1786, the Russians had Settlements on the Island of Kodiak and in Cook's River; but we shall take leave to use the same authorities to establish the fact that none of these Settlements extend so far east as Behring Bay. Vancouver, when speaking of Port Etches in Prince William's Sound (June 1794), says (vol. iii, p. 173), "from the result of Mr. Johnstone's inquiries it did not appear that the Russians had formed any establishments *eastward of this station*, but that their boats made excursions along the exterior coast as far as Cape Suckling, and their galiots much farther." Again, p. 199, "we, however, clearly understood that the Russian Government had little to do with these Settlements; that they were solely under the direction and support of independent mercantile Companies; and that Port Etches, which had been established in course of the preceding summer, *was the most eastern Settlement on the American coast.*"

In a subsequent letter to Mr. Adams, M. de Poletica says: "But what will dispel even the shadow of doubt in this regard" (title by occupation) "is the *authentic fact* that, in 1789, the Spanish packet 'St. Charles,' commanded by Captain Haro, found in the latitude 48 and 49, Russian establishments to the number of *eight*, consisting in the whole of twenty families, and 460 individuals. *These were the descendants of the companions of Tchiricoff, who was supposed till then to have perished.*" This, if true, is, we allow, conclusive evidence of the Russian "title by occupation." It is certainly the most important fact brought forward by M. de Poletica. In truth it is the only one that, in our opinion, has a direct bearing on the question, and on its correctness we are willing to rest the issue. Nootka Sound lies in latitude 49° 30′, Clayoquot, or Port Cox, in 49°, and Classet, at the entrance of the Straits of Juan de Fuca, in 48°. Nootka was first visited by the

nish navigator Perez in 1774, by Cook in 1778; from 1784 to 1789 it frequented by English, Portuguese, and American vessels; in 1788 tain Mears built there a vessel, and made the Settlement which, sequently, came near causing a rupture between Great Britain and in; in 1789 a Spanish Settlement was made by Martinez, and continued till 1794. During this period Nootka, Clayoquot, and Classet were the common rendezvous for the ships and fur-traders of all nations; vessels were built by citizens of the United States at Nootka and Clayoquot; in 1790 the Settlements at Nootka me the subject of investigation in the British Parliament, and mes were written on it. Now we ask M. de Poletica, or any man ommon intelligence, if it is within the bounds of probability—if it ven possible—that eight Russian establishments, containing 462 viduals, should have existed in 1789 in the centre of these operas, on the very spot for which two powerful nations were contend- and no allusion be made to the circumstances during the whole ussion, no mention be made of them by any of the numerous ers on the subject, and no intimation of the fact in the journals of k, Mears, Dixon, and Vancouver, who speak of Russian establishts on other parts of the coast, and are altogether silent respecting e, which, had they existed, would have been of more importance all the other Russian Settlements in that quarter of the globe?

We have recently conversed with a son of Captain Kendrick, who with his father in the "Columbia" in 1787, and remained a conrable time at Nootka in the Spanish service, and with another vidual of great respectability, now residing near Boston, who, in , built and equipped a small vessel at Nootka for commercial purs. Both these individuals were personally intimate with Captain o at Nootka, but never heard an intimation of his having discovered sian establishments in that vicinity; yet such a fact must have highly interesting to the Spaniards, who intended their Settlet to be permanent, and to the Americans, who were actively aged in the fur trade; and, therefore, very likely to become a sub- of discussion.

1799 the writer of this article visited the north-west coast on comcial pursuits. In the course of that year he entered the several s situated in the 48th and 49th degrees of latitude; was personally uainted with the Chiefs and many of the natives; acquired considle knowledge of their language and customs, but saw no vestige of le Poletica's Russian establishments, nor perceived the slightest cation of Russians having ever set foot in the country or visited its res. These facts might be deemed sufficient, but we shall offer one more directly to the point. In the summer of 1799 the writer, then Behring Bay, in latitude 59° 30′, fell in with M. Baranoff, at that e, and for many years before and afterwards, Commander-in-chief ll the Russian establishments in that part of the world. He visited American ship, and passed a day on board. Through an English- in his service, who acted as interpreter, a full and free communiion took place. M. Baranoff stated that he was from Ounalaska, ich he left in company with a galiot and a large fleet of skin-canoes, n whom he separated, in a fog, a few days before, and that they e all bound for Norfolk Sound for the purpose of forming a Settlnt or hunting-post. Learning that the writer had been at that place hort time previous, he showed great solicitude to obtain information, ticularly respecting the native inhabitants, of whom he appeared to much in dread, declaring his apprehensions that they would destroy

his hunters and defeat his plans. He further stated that a hunting party having a short time before extended their excursion to the neighbourhood of Norfolk Sound, had found the sea-otters so abundant as to induce him to undertake what he considered a most perilous enterprise, and *he expressly declared that this was the first attempt ever made by the Russians to establish a post so far to the southward and eastward.* This, though not a "historical fact," is one for the correctness of which we hold ourselves pledged. It would thus seem that M. Baranoff knew nothing of the extensive Russian establishments in 48° and 49°, and we may, without injustice, regard as wholly gratuitous on the part of M. de Poletica the discovery of the long-lost companions of Tchiricoff. We are tempted, moreover, to dwell a moment on the unparalleled increase ascribed to this party. Four hundred and sixty descendants from fifteen men in forty-seven years would afford a duplication of numbers in a little more than nine years, a statement we should not dare to make in the hearing of Mr. Godwin. But what has become of these "eight establishments" at the present time? By the same ratio of increase they would now contain about 4,000 souls; why are they left without the pale of Imperial protection? If they do not exist, why, when, and to what place were they removed? The plain truth is, that in fixing the situation of the eight establishments discovered by Captain Haro, M. de Poletica has made the mistake (a trifling one it may seem on a Russian Map) of *ten degrees* of latitude. They were actually found in latitude *fifty*-eight and *fifty*-nine, instead of 48° and 49°, and distant more than 1,000 miles from the situation assigned them by the Russian Minister. This fact appears beyond a doubt from the account of the voyage of Captain Haro given by M. Fleurieu in the "Historical Introduction" before referred to. It is there stated, on the authority of two original letters, the one from San Blass, dated the 30th October, 1788 (a few days after the return of Haro), the other from the city of Mexico, dated the 28th August, 1789, that Don Haro found, between the latitudes *fifty*-eight and *fifty*-nine, eight Russian establishments, each composed of between sixteen and twenty families, forming a total of 462 individuals. It is added, "that the strangers had succeeded in habituating to their customs and manners 600 of the natives of the country, and received a tribute from them for the Empress of Russia." For this part of the account M. de Poletica has substituted his own speculations concerning the lost companions of Tchiricoff. In a note M. Fleurieu remarks that, "in the letter from St. Blass, it is mentioned that the Settlements are situated between the latitudes of 48° and 49°, but it is either the fault of the copy, or it is by design, that the latitudes have been improperly indicated." M. de Humboldt, in his "Political Essay on the Kingdom of New Spain," vol. ii, p. 320, mentions the voyage of Don Haro in the "St. Carlos," and essentially confims the account already given. As he had access to the
33 manuscript account of the voyage, we presume his authority will not be questioned. Page 339 he says, "No European nation has yet formed a solid establishment on the immense extent of coast from Cape Mendocino (latitude 42°) to the *fifty-ninth* degree of latitude: *beyond this limit the Russian factories commence*," &c. We have been thus particular respecting the discoveries made by Captain Haro, because M. de Poletica considers them as "dispelling even the shadow of a doubt" in relation to the Russian "title by occupation" even farther south than 51°. As we fully agree with him that they do dispel all doubt on the subject, and as this is probably the only point in which we shall agree, we trust our readers will pardon us for dwelling on this coincidence of opinion.

The minute investigation we have bestowed on the Russian "title by rst occupation" has sufficiently taxed the patience of our readers, and re spare them an examination of that which "results from a peaceable ossession of more than half a century," for it is obvious in the present ase that unless the fact of occupation is clearly established the claim o "peaceable possession" must fall. We readily concede to Russia riority of discovery, first occupation, and are by no means disposed o disturb her "peaceable possession" of the Aleutian Islands and djacent coast, including Cook's River, Prince William's Sound, and Behring Bay. We are not remarkably disinterested in making this concession, for, to all practical purposes, we would as soon contend for one f the floating icebergs that are annually detached from the polar asses. The trade carried on by citizens of the United States with hose places was never very valuable, and for many years has been altogether abandoned. In a territorial point of view, it is of little importance whether those distant regions are inhabited by the aboriginal avage or the Siberian convict. As to the fact, however, we give a short uotation from Vancouver to show that in 1794 the Russians were very ar from having "peaceable possession" even of Behring Bay.* In elating transactions at that place, when in company with a large hunting party of Russian Indians, he says, "Portoff embraced this occasion o inform M. Puget that, on the evening of the 28th, while he and his hole party were on one of the small islands in Port Mulgrave" (situted in Behring Bay), "they were surprised by a visit from about fifty f the natives; and, notwithstanding the superior numbers of his party about 900!), he had so little confidence in the courage of the Kodiak nd Cook's Inlet Indians that he was extremely anxious to be quit of uch dangerous visitors, and *had determined on returning to Kodiak as oon as the 'Chatham' should leave the bay.*" The destruction of the ettlement at Norfolk Sound in 1802 is as little calculated to confirm he fact of peaceable possession at that period. In short, it is perfectly ell known to every navigator, Russian as well as others, who has visited hat part of the world that no Russian Settlement now exists, or *ever id exist*, between the latitudes of 58° and 42°, except the one so often entioned at Norfolk Sound. On what, then, rests the Russian claim o any part of the country between those parallels? Simply on the facts hat Tchiricoff, in 1741, saw land in 55° 36′, and that M. Baranoff, in 799, made a Settlement at Norfolk Sound, which was destroyed in 1802, nd re-established in 1804. Such, we conceive, is the plain result of an ivestigation of the very authorities which M. de Poletica himself has dduced.

We are not among those who believe that a distant view of a cape or ountain—or dropping the first anchor in a bay or harbour—nay, we arry our incredulity so far as to doubt if the magical ceremony of landng on a coast, hoisting a piece of bunting, cutting an inscription, or ven that last great act of Empire, burying a bottle, can invest the ation, whose flag the navigator happens to bear, with the rights of overeignty over a country inhabited by a brave and independent peole, whose right to the soil which they possess, and the freedom they njoy, is coeval with time itself. We therefore attach no importance to he circumstance of land being seen by Tchiricoff in 1741; but if M. de oletica does, we are perfectly willing to try titles with him on the core of discovery. It is well known that Spain, by the IIIrd Article f the Treaty of 1819, ceded to the United States all her rights to the

* Vol. iii, pp. 231, 232.

western coast of America north of 42°. It follows that all the discoveries made by her navigators beyond that limit now belong to the United States. It is a "historical fact," and one too well authenticated to admit of doubt, and it is stated by M. de Humboldt in the work before quoted (p. 313), that "Francisco Gali, in his voyage from Macao to Acapulco, discovered in *fifteen hundred eighty-two* the north-west coast of America, under the 57° 30′."—"On correcting the old observations by the new in places of which the identity is ascertained, we find that Gali coasted part of the archipelago of the Prince of Wales, or that of King George." Here we find that the land was discovered and its shores examined 159 years before the voyage of Tchiricoff, and from 2 degrees farther north than the cape seen by that navigator, a fact that puts the Russian claim to discovery out of the question. As little do we believe in the validity of the claims resulting from the occupation of Norfolk Sound in 1799. This sound was first discovered and examined by the Spanish expedition under Heceta, Ayala, and Quadra in 1775, and received the name of "Bay of Guadalupa." A few years afterwards it was visited for commercial purposes, and, abounding in valuable furs, soon became the general resort of all those engaged in that trade. It was frequented by the vessels of Great Britain, France, and the United States several years before the Russians had extended their excursions so far eastward, and it is therefore clear that at that time they had no claim on the ground of occupation. If, then, prior to 1799 Russia possessed no rights on this part of the coast but such as were common to and enjoyed by other nations, we confess ourselves unable to perceive why the establishing of a few hunters and
34 mounting some cannon in the corner of Sitka Bay should give her the right of restraining an intercourse and interdicting a commerce which had hitherto been free as air, and prohibiting the approach of vessels of other nations to shores which the navigators of such nations first discovered and explored! The claim of Russia to sovereignty over the Pacific Ocean north of latitude 51° on the pretence of its being a "*close sea*" is, if possible, more unwarrantable than her territorial usurpations.

Mr. Adams, in noticing it, merely states the fact that "the distance from shore to shore on this sea in latitude 51° is not less than 90 degrees of longitude, or 4,000 miles!" A volume on the subject could not have placed the absurdity of these pretensions more glaringly before us. M. de Poletica, in his third letter, declines further discussion on this subject, "as the Imperial Government," he says, "has not thought fit to take advantage of that right." If interdicting the navigation of this sea to the distance of 100 miles from the shore is not taking advantage of the right to consider it a "close sea," we ask M. de Poletica to point out to us the "laws and usages of nations" by which such a measure can be justified,

We have thus attempted to lay before our readers the character of the Russian claims to the north-west coast of America. It is difficult to conjecture what are the ultimate views of the Russian Government in relation to this coast. The ostensible object is, evidently, a monopoly of the fur trade. It is well known to the Russian Fur Company that nearly all the sea-otter skins, and most of the other valuable furs, are procured north of the 51st degree, and if "foreign adventurers" can be prevented from approaching that part of the coast, the Company would soon be left in undisturbed possession of the whole trade, for south of 51° it is not of sufficient value to attract a single vessel in a season. This would not only secure for them a monopoly in the purchase, but

give them the control of the Chinese market for the most valuable furs, which would be still more important. But we suspect a deeper design than the monopoly of a few otter-skins, for which the interests of the Fur Company are made a convenient cover. We have the authority of Humboldt for stating that, in 1802, the Russian Government limited their territorial claims to the north of 55°. They are now extended to 51°, and M. de Poletica informs us that this is only a "moderate use of an incontestable right," intimating that the just claims of Russia extend still further south. If these usurpations are submitted to, is it improbable that a further use may be made of "incontestable rights"? If the right establishments existed in 1789 where the Russian Minister places them, no one would deny their right of possession at that time as far as 48°. The nearest European Settlement was then the Spanish one of St. Francisco, in 38°. The point, equi-distant ftom these two, is the 3rd degree, which, according to the principle asserted by M. de Poletica, would have been the Russian boundary in 1789. With the ingenuity which that gentleman has displayed, it would not be difficult to extend the Russian claims quite to the borders of California, and establish them there as satisfactorily as he has done to the 51st degree. The Russians have already made a considerable Settlement on Spanish territory at Port Bodega, in latitude 40°; and it is *possible* that, guided by the same spirit of philanthropy which prompted the dismemberment of Poland, the august Emperor may choose to occupy the fertile but defenceless Province of California, and annex it to his already extensive dominions. Notwithstanding the friendly relations that exist between the United States and Russia, we should deem it a serious evil to have, on our western frontiers, a formidable population, subjects of an ambitious and despotic Government; and all the veneration we feel for the great leader of the "Holy Alliance" awakens no desire to witness a nearer diplay of his greatness and power.

Great Britain, we apprehend, will not be more desirous of such neighbours than the United States, and she may think fit to advance claims that will be found to conflict with those of Russia. The subject has recently been noticed in the British Parliament, and appears to have created considerable excitement. In justice to the memory of her celebrated navigators, Cook and Vancouver, we must declare that the world is more indebted to their indefatigable labours for a correct knowledge of this coast than to those of all other navigators who have ever visited it. Her subjects were the first Europeans who engaged in the fur trade, and a free access to the *interdicted shores* is at the present time quite as important to them as to those of any other Power. Since the commencement of the present century the British "North-West Company," following the steps of the enterprising McKenzie, have extended their trading posts westward of the Rocky Mountains, and established them, from the Columbia River to the latitude of 55°, on the borders of several lakes and rivers that empty into the Pacific Ocean. At first the supplies for these posts were carried from Canada by way of the lakes and the Unjagah, or "Great Peace River," that has its source near the Pacific, and runs eastward through the Rocky Mountains. This mode of transportation was found hazardous and expensive, and arrangements were made about 1814 by the Company with the proprietors of a Settlement made by American citizens at the mouth of the Columbia, by which the Company became possessed of that Settlement. Since that time the posts westward of the Rocky Mountains receive their supplies through that channel. Hitherto most of these supplies have been shipped from London to

Boston, and sent to the mouth of the Columbia in American vessels. From an intimation in the fifty-second number of the "Quarterly Review" we are prepared to learn that the United North-West and Hudson Bay Companies have extended their Settlements still further, and already fixed themselves on the borders of the Pacific. They will soon discover that the most direct and easy route for conveying supplies to all their northern establishments west of the Rocky Mountains, and even to some of those on the eastern side of that range, will be by means of the river called by Mr. Harmon the "Nate otetain," which empties into the Pacific a little south of 54°, and by "Nass River," which disembogues in a large bay on the eastern side of "Observatory Inlet," about the latitude of 55°. The Indians of the coast describe both these rivers as communicating with "eūwon teēdor hūntles" (great inland waters), and represent the navigation of them as safe and easy for loaded canoes, with the exception of some short portages at the rapids and falls. They make frequent journeys to trade with the Teēdor Hardī (inland people), who are said to reside in numerous villages on the banks of these rivers and the adjoining lakes. The free navigation of these streams will be highly important to the United Fur Company, and the British Administration of the present day must be actuated by a very different spirit from that which thirty years ago prompted the expenditure of millions in preparing to resent the outrage committed at Nootka, if they do not resist the usurpations of Russia; usurpations which would compel the British Company to abandon the Settlements already made, and forego the advantages resulting from free access to the shores of the continent north of 51°.

France has likewise an interest in resisting the pretensions of Russia. She has made several efforts to carry on a trade to this coast since it was visited by her distinguished navigator, the unfortunate La Pérouse. The voyage of Marchand in the "Solide" was made between 1790 and 1793, and a French vessel was cut off by the tribe of Coyer near the south part of Queen Charlotte's Islands about the same time. In 1819 the attempt was renewed. A vessel from France in course of that season collected a cargo of furs on the coast, and carried them to Canton. These, however, are all the attempts of that nation which have come to our knowledge. One section of the Ukase appears to us little short of an actual declaration of hostilities against every nation carrying on a trade to the north-west coast. It is as follows:

Section 26. The commander of a Russian vessel *suspecting* a foreign one to be liable to confiscation, must inquire and *search* the same, and, finding her guilty, take possession of her. Should the foreign vessel resist, he is to employ, first *persuasion*, then *threats*, and at last *force;* endeavouring, however, at all events, to do this with as much reserve as possible. If the foreign vessel employ force against force, then he shall consider the same as an evident enemy, and force her to surrender according to the naval laws.!

It might have been expected that no attempt would be made to enforce regulations so deeply affecting the interest and supposed rights of other nations, pending the discussions they had given rise to; but the closing part of the correspondence precludes the hope of even this *appearance* of justice. Mr. Adams, in concluding his last letter, says, "The President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights." To this M. de Poletica answers, "I cannot dissemble, Sir, that this same trade beyond the 51st degree will meet with difficulties and inconveniences for which the American owners will only have to accuse

their own imprudence," &c. If we understand this threat, it is meant to prepare us for the immediate execution of the Imperial Ukase. We thank M. de Poletica for this candid avowal of the hostile intentions of his Government, and, with equal frankness, assure him that those engaged in the trade to the north-west coast have always considered it a lawful commerce; and having been confirmed in that opinion by the official declaration of the Executive of the United States that, "from the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and *the right to navigate them is a part of that independence*," and that "the right of the citizens of the United States to hold commerce with the aboriginal natives of the north-west coast of America, without the territorial jurisdiction of other nations, even in arms and ammunitions of war, is as clear and indisputable as that of navigating the seas," they are not disposed to surrender these rights without a struggle. The American vessels employed on the north-west coast are well armed, and amply furnished with the munitions of war. Separated from the civilized world, and cut off for a long time from all communication with it, they have been accustomed to rely on their own resources for protection and defence; and to consider and *treat* as enemies all who attempt to interrupt them in the prosecution of their lawful pursuits. To induce them to relinquish this commerce "persuasion" will be unavailing, "threats" will be disregarded, and any attempts at coercion will be promptly resisted unless made by a force so superior as to render resistance hopeless, in which event they will look with confidence to their Government for redress and support.

We have already devoted to this article more of our pages than so dry a subject may be thought to merit; but we cannot close without noticing the remarks made by M. de Poletica upon what he is pleased to call "the culpable enterprises of foreign adventurers," whom he accuses of carrying on an "illicit trade" of "furnishing arms and ammunition to the natives in the Russian possessions in America," and of "exciting them in every manner to resistance and revolt against the authorities there established."

In answer to the first charge, we would observe that the trade carried on by citizens of the United States with the Russian Settlements on the north-west coast has the sanction of their own Government, and till now has never been prohibited by that of Russia. It is done openly, and with the consent of the "established authorities" at the several places, who are themselves, in most instances, parties to all commercial transactions. But for the supplies which this trade has furnished, some of the Russian Settlements must have been abandoned; and from Langsdorff's account of the situation of "New Archangel," it appears that, in 1805, the people would have perished from famine had
36 they not been relieved by American traders. At this moment American vessels are engaged by contract with the servants of the Russian Fur Company in supplying their Settlements with the necessaries and comforts of life. It is a perversion of language to call such a trade "illicit."

On no better foundation rests the charge of "furnishing arms and ammunition to the natives in the *Russian possessions*." The natives who have been subjected to the Russian power are too wretchedly poor to purchase arms, or indeed anything else. That supplies of this nature are furnished in large quantities to the independent aboriginal inhabitants is certainly true. No arguments are necessary to prove our unquestionable right to continue such supplies, and Russia might

with equal justice complain of our furnishing the Chinese with furs as "prejudicial to rights," which the "Russian-American Company" seem disposed to "reserve entirely" to themselves.

The *general* charge of "exciting the natives to *revolt* against the established authorities" may be sufficiently answered by as broad a denial. The only specification we have met with is the following relation, given by the Russian navigator Lisiansky, of the destruction of the Settlement at Norfolk Sound in 1802 by the Sitka Indians:

> With so fair a face of friendship no enmity could be suspected, and the fort was occasionally left in a sort of unprotected state, the Aleutians and Russians being engaged in hunting the sea-otter, or in the still more necessary business of procuring a supply of provisions for the winter. It was an opportunity of this nature which the Sitcans embraced for the execution of their nefarious plan; and so secret were they in its management that, while some stole through the woods, others passed in canoes by different creeks to the place of rendezvous; they were about 600 in number, and all were provided with fire-arms. Though the attack was wholly unexpected, the few Russians in the fort courageously defended it. But vain was defence against such numbers: it was quickly taken by storm. The assault commenced at noon, and in a few hours the place was levelled to the ground. Among the assailants were three seamen belonging to the United States, who, having deserted from their ship, had entered into the service of the Russians, and then took part against them. These double traitors were among the most active in the plot. They contrived combustible wads, which they lighted, and threw upon the buildings where they knew the gunpowder was kept, which took fire and were blown up. Every person who was found in the fort was put to death.

M. Lisiansky does not favour us with his authority for implicating the Americans in this transaction, of which we have received a very different account from a source which leaves not a doubt in our minds of its authenticity, and which we subjoin to show that "foreign adventurers" have, contrary to the dictates of sound policy and their own interest, taken part with the Russians against the aboriginal natives.

The intolerable tyranny exercised by the Russians over the Sitka Indians in seizing their Chiefs and loading them with irons on the most frivolous pretences, in taking possession of their hunting-grounds, and attempting, by every means in their power, to subject them to the most abject slavery, roused the indignation of that tribe, and they resolved to destroy their oppressors, or perish in the attempt. Having by an appearance of submission lulled the suspicions of the Russians, they determined in the summer of 1802 to make the attack. At that time there resided at the Russian Settlement six American seamen who had deserted from the ship "Jenny," of Boston, and *been secreted by the Russians till after her departure.* The seamen were invited by the Indians to visit the village of Sitka, and, on arriving there, were informed of the meditated attack, and their assistance solicited. This was *positively refused.* They were then assured that no injury should be done to them, whatever might be the event, but that they must remain at the village under guard till the event was known. The Indians succeeded in surprising and destroying the fort, and under the excitement of the moment put to death every Russian whom they found. The Aleutian women and some children who were living with the Russians were made prisoners. A few days afterwards two American vessels and one English entered Norfolk Sound. The Indians immediately brought the six Americans on board in safety, but refused to comply with a demand, made by the commanders of these vessels, for the Aleutian women and other captives taken in the fort; and coercive measures were finally resorted to, and hostilities commenced, by these "foreign adventurers," to obtain the release of Russian subjects! This was accomplished, and upwards of thirty individuals were received on board, and carried in one of the vessels to the Russian Settlement at

Kodiak. The writer was at that time in the vicinity of Norfolk Sound, and received this account from the Sitka Indians and from the officers of the American vessels, some of whom are now living in Boston. But had the conduct of the Americans been otherwise, we cannot admit that *any* transactions in Norfolk Sound would support the charge of "exciting revolt" in the "*Russian possessions;*" for the whole of her possessions there are limited to the range of the cannon-shot of her fort. The whole extent of coast from latitude 58°, to the Straits of Juan de Fuca, in 48°, is inhabited by numerous powerful and warlike tribes, perfectly free and independent of Russian authority. Possessing in a high degree the nobler traits of savage character, and devotedly attached to liberty, they prize personal freedom more highly than life itself.

The courage and constancy of the Sitka Indians, when attacked by the Russians in 1804, is a striking instance of their intrepidity and deep-rooted love of independence, and warrants the conclusion that to secure "the peaceable possession" of that country to Russia, something more will be requisite than the "*Be it accordingly*" of her Emperor, or the arguments of her Envoy. The following is from the account of
37 that transaction by Lisiansky, who commanded the "Neva," a Russian ship of war, engaged in the expedition:

In the afternoon of the 26th a canoe, with three young men in it, came alongside the American ship.* Being informed that one of these youths was the son of our greatest enemy, I could not resist the desire I felt to have him in my power; and the moment the canoe left the "O'Cain" I dispatched a jolly-boat in pursuit of it; but the natives rowed so lustily that they outstripped the boat, and when our party fired upon them they intrepidly returned the fire, showing us thereby with what sort of persons we should have to deal. Again, he (the Ambassador) was then sent back with the same answer as before, that we required, as a necessary preliminary to pacification, that the Chiefs themselves should come to us. At noon we saw thirty men approaching, all having fire-arms. They stopped when at the distance of musket-shot from the fort, and commenced their parley, which, however, was quickly terminated, *as they would not agree to a proposal made by M. Baranoff that we should be permitted to keep perpetual possession of the place at present occupied by us, and that two respectable persons should be given as hostages.* On the conclusion of this interview the savages, who were sitting, rose up, and after singing out three several times, "Oo, Oo, Oo!" meaning "End, end, end!" retired in military order. However, they were given to understand by our interpreters that we should instantly move our ships close to their fort (for their Settlement was fortified by a wooden fence), and they would have no one but themselves to reproach for any consequences that might ensue.

On the 1st October we carried this menace into execution by forming a line with four of our ships before the Settlement. I then ordered a white flag to be hoisted on board the "Neva," and presently we saw a similar one on the fort of the enemy. From this circumstance I was not without hope that something might yet occur to prevent bloodshed; but finding no advances on their part I ordered the several ships to fire into the fort. A launch and a jolly-boat, armed with a 4-pr., under the command of Lieutenant Arboosoff, were then sent to destroy the canoes on the beach, some of which were of sufficient burthen to carry sixty men each, and to set fire to a large barn not far from the shore, which I supposed to contain stores. Lieutenant Arboosoff, finding he could do but little execution from the boats, landed, and taking with him the 4-pr., advanced towards the fort. M. Baranoff, who was then on board the "Neva," seeing this, ordered some field-pieces to be landed, and, with about 150 men, went himself on shore to aid the Lieutenant. The savages kept perfectly quiet till dark, except that now and then a musket was fired off. This stillness was mistaken by M. Baranoff, and, encouraged by it, he ordered the fort to be stormed, a proceeding, however, that had nearly proved fatal to the expedition, for as soon as the enemy perceived our people close to their walls, they collected in a body, and fired upon them with an order and execution that surprised us. The Aleutians who, with the aid of some of the Company's servants, were drawing the guns along, terrified at so unexpected a reception, took to their heels, while the commanders, left with a mere handful of men belonging to my ship, judged it prudent to retire, and endeavour to save the guns. The natives, seeing this, rushed out in pursuit of them, but our sailors behaved so gallantly that, though almost all wounded, they brought off the

* The American ship "O'Cain," of Boston, was then lying in Norfolk Sound.

field-pieces in safety. In this affair, out of my own ship alone, a Lieutenant, a Master's Mate, a Surgeon's Mate, a Quartermaster, and ten sailors of the sixteen who accompanied them, were wounded, and two killed; and if I had not covered this unfortunate retreat with my cannon, not a man would probably have been saved. The Russians finally prevailed, by the superiority of their artillery, and this was the closing scene.

When morning came I observed a great number of crows hovering about the Settlement. I sent on shore to ascertain the cause of this, and the messenger returned with news that the natives had quitted the fort during the night, leaving in it alive only two old women and a little boy. It appears that, judging of us by themselves, they imagined that we were capable of the same perfidiousness and cruelty, and that if they had come out openly in their boats, as had been proposed, we should have fallen on them in revenge for their past behaviour. They had, therefore, preferred running into the woods, leaving many things behind, which, from their haste, they had been unable to take away.

It was on the 8th that the fate of Sitka Fort was decided. After everything that could be of use was removed out of it, it was burned to the ground. Upon my entering it before it was set on fire, what anguish did I feel when I saw, like a second massacre of innocents, numbers of young children lying together murdered, lest their cries, if they had been borne away with their cruel parents, should have led to a discovery of the retreat to which they were flying. O, man, man! of what cruelties is not thy nature, civilized or uncivilized, capable?

Whether M. Lisiansky means this exclamation for the invaders or their victims does not appear.

Lisiansky adds, "We have reason to believe, from information we obtained, that the chief cause of their flight was the want of powder and ball; and that if these had not failed them, they would have defended themselves to the last extremity." Such we know to have been the fact, and but for this they would, with a heroism worthy a better fate, have perished in defending their invaded rights.

38 The writer was at that time near the scene of these transactions, and received from the Indians daily accounts of passing events. They were in substance much the same as those given by Lisiansky, with this addition, that having so often experienced the perfidy and cruelty of the Russians, they placed no confidence in any promises made by them, and well knew that *slavery* must follow submission. Finding themselves without means of defence, they determined to abandon their country, retreat into the interior, and thus preserve their independence by the sacrifice of their possessions. Those who were too old or too young to support the fatigues and sufferings of the contemplated journey were dispatched on the spot, "and," added the Chief who gave this account, "*their innocent blood be on the heads of those who caused the deed.*" We shall offer no apology for introducing the following anecdote as a further illustration of the character of these people.

In the summer of 1804 several tribes collected at "Nass," where a sort of fair is annually held. At this time an affray took place between individuals of the Cockalane tribe, who reside on the main, near the entrance of Observatory Inlet, and of the Skettageets tribe, who inhabit the opposite shores of Queen Charlotte's Islands, in which Cockalane, the great Chief of his nation, was unfortunately killed. In the course of the following winter, when the inclemency of the season prevented all intercourse between the Indians of the main and those of the islands, the writer visited Skettageets. Inquiry being made by the Chiefs respecting the intentions of the Cockalane tribe, they were told that early in the spring the friends of the deceased Chief were determined to attack them with an irresistible force, and destroy the whole Skettageets nation. Elsworsh, a distinguished young Chief, heard this account with great calmness, and expressed doubts of the ability of their enemies to execute these threats. Being assured that they were

hly exasperated, and resolved on vengeance, he replied, with a ntenance and manner that expressed his feelings more forcibly than guage, "It is well, let them come—let them attack—let them destroy —it is well—we are but passing clouds," and added, pointing to the n, "Where is the man, like yonder sun, who never dies?"*

Let us not be suspected of representing these people in too favoura- a light. They share, of course, the passions and vices that usually evail in the savage state. Implacable hatred and thirst for revenge, gendered by real or supposed injuries, too often excite them to deeds which humanity shudders. We have known in their intercourse with reigners instances of unprovoked outrage and violence. But we have ore frequently met with *ex parte* accounts of their treachery and feroc- y where circumstances have been known to us that gave a very different louring to their conduct. They are a people more "sinned against" an "sinning." We should rejoice if the dark shades of their char- ter could be dispelled by the mild influence of Christianity, without ndangering that independence which is the ground-work of every rtue they possess; but our knowledge of their habits and feelings ve us little hope of its accomplishment, and our fears that any change couraging white people to settle among them would lead to their struction leave us no wish that it should be attempted.

The march of civilization seems the signal for their disappearance, d there is something mournful in the reflection that at no distant riod this race of men, which physiologists reckon as one of the distinct rieties of mankind, will exist only in the pages of history.

We have already extended this article beyond reasonable bounds, or e should have offered some remarks on the letter of Mr. Prevost to e Secretary of State respecting the Columbia River. We do not sub- ribe to all the opinions of that gentleman, and doubt the accuracy of e information he received in relation to some facts he has stated. ut as we cannot go into the subject at large, we shall only notice an nimportant error in relation to the language, which, he says, "bears a trong analogy with that of Nootka." This mistake (if it be one) may e easily accounted for, when it is known that the natives of Columbia iver have frequent intercourse with the Indians of Classett, who speak e Nootka language, and that the first "foreign adventurers" who isited the river had previously acquired a knowledge of that language. was natural that their intercourse should be carried on in a language which both had some knowledge, and this has been the case to a rtain extent ever since. A comparison of the following numerals in e Nootka language and in that spoken at the mouth of the Columbia ill show an essential difference:

glish.	*Nootka.*	*Cheenook.* †
One.	Sawac.	Ect.
Two.	Athlar.	Mōxt.
Three.	Cutsar.	Clūne.
Four.	Moo.	Luct.
Five.	Suchar.	Quānim.
Six.	Nōōpoo.	Tūckum.
Seven.	Athlarpoo.	Sīnamixt.
Eight.	Athlacquelth.	Stōōtkēēn.
Nine.	Tsawacquelth.	Quiēēto.
Ten.	Hēioo.	Taītlelum.

* Kēētlānnu Kēēset, tsué cootcanōng, come howēēne cardie."

† Mouth of the Columbia.

39 No. 5.

EXTRACTS FROM THE "HISTORICAL REVIEW OF THE FORMATION OF THE RUSSIAN-AMERICAN COMPANY, AND THEIR PROCEEDINGS UP TO THE PRESENT TIME" (IN RUSSIAN), BY P. TIKHMENIEFF, ST. PETERSBURGH, 1861, PART I, CHAPTER VIII, PAGES 257–261.

[Translation.]

The boundaries of the Russian possessions on the north-west coast of America, defined in the Charter renewed to the Company by the Emperor in 1821, were somewhat altered in consequence of disputes which arose with the United States of America and with England. In the Conventions concluded by Russia with the United States' Government on the 5th (17th) April, 1824, and with England on the 16th (28th) February, 1825, it was stipulated that the boundary of the Russian dominions on the south should extend from the southern limit of Prince of Wales' Island (54° 40′ north latitude), and between 131° and 133° west longitude from Greenwich to the north along the Portland Channel to that point of land which touches the 56th parallel of latitude. By the former of these Conventions the citizens of the United States were given the right, for a period of ten years, to fish in the waters of the Colony, and to trade with the inhabitants of the coast.

This latter provision provoked from the Company a complaint that the privileges granted to them by the Emperor had been infringed in a manner which threatened the prosperity of the Colony, and even the very existence of the Company.

In a letter addressed to the Foreign Office, Admiral Mordvinoff, a shareholder of the Company, spoke very strongly in defence of the rights of the Company, and called attention to the fact that certain parts of the Convention were not at all clear, and might give rise to many disputes. The Foreign Office replied that our Government had two very good reasons for granting to the citizens of the United States the right to trade and fish in the waters of the Colony for a period not exceeding ten years, namely, first, because the Government of the United States asked, not without reason, for something in return for the great advantages conceded to Russia by the other parts of the Convention, in particular by Article V; and, in the second place, because, as the Company had not hitherto been able to prevent the Americans from continuing the trading and fishing in the waters of the Colony, which they had carried on for many years, it would be much better that the Company should give their formal consent to such trading and fishing than that they should see their prohibition disregarded, and trade and fishing continue as before, as if by a natural and indefeasible right. Besides, a great advantage would be gained by the formal grant of this privilege for a certain period, because, in return, the United States' Government would be ready to admit formally that, at the end of the stipulated period, the Company would have a perfect right to prohibit trading and fishing by Americans in the waters of the Colony, and punish those who disregarded the prohibition.

As the Convention had not yet been ratified, the Emperor, on the representation of the Company that they would be injured by that part of the Convention to which we have referred, ordered inquiry to be made into the matter by a Special Commission. In the Protocol of the Commission, which was approved by the Emperor, it was declared, *inter alia*, that the provision of the Convention granting to the citizens of the United States the right to fish in the waters of the Colony, and to trade

with the inhabitants of the coast, must not be understood as giving them a right to approach the coast of Eastern Siberia, and the Aleutian and Kurile Islands, which had long been recognized by the other Powers as being under the exclusive dominion of Russia, and that that provision only applied to the disputed territory on the north-west coast of America, between 54° 40′ and 57°.

In consequence of this declaration, the Head of the Foreign Office and the Commission were of opinion that, in order to safeguard the rights of the Company, and to obviate the possibility of the Convention being wrongly interpreted, the Russian Minister to the United States should be instructed to make a formal explanatory declaration on the occasion of the exchange of the ratifications of the Convention. The Minister reported that he did not see his way to carrying out these instructions, and that the only way in which he could explain the provision in question to the Washington Cabinet was by a verbal note; he added that a formal declaration might give rise to serious disputes, prevent the ratification of the Convention, and produce an effect which was not intended, by arousing suspicions which would otherwise never be entertained. The Convention was accordingly ratified.

* * * * * * *

[At the end of the ten years' period the American Government asked for a renewal of the privileges; the Russian Government refused, stating that such a renewal would not be in the interest of the Russian-American Company. The American Government then inquired what steps the Russian Government proposed to take, and were informed that the authorities of the Russian Colonies had been instructed to pre-
40 vent American vessels from visiting the inland seas, gulfs, harbours, and bays to the north of 54° 40′ north latitude.]*

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[Translation.]

In 1842 Etolin, Governor of the Colony, informed the Company that in the course of his tour of inspection he had come across several American ships. Although circumstances had prevented his communicating with them at the time, he had reason to believe that they were whalers. In corroboration of this he stated that for some time he had been constantly receiving reports from various parts of the Colony of the appearance of American whalers in the neighbourhood of the harbours and shores of the Colony.

Amongst these reports the most noteworthy was that of Captain Kadnikoff, the commander of the Company's ship "Nasliednik Alexander," who stated that, on a voyage from Sitka to Okhotsk, he had hailed a whaler flying the American flag. The master informed him that he had come from the Sandwich Islands in company with thirty other ships to whale on both sides of the western extremity of the Peninsula of Alaska and the eastern islands of the Aleutian group belonging to that peninsula, and that as many as 200 whalers were coming from the United States the same year. Captain Kadnikoff also ascertained from the master that in 1841 he had whaled in the same waters in company with fifty other ships, and that his ship secured thirteen whales, from which 1,600 barrels of oil were obtained.

*The passages in brackets are abstracts of the Russian text.

The Company addressed an energetic representation to the Foreign Office, calling upon the Government to prevent the Americans from fishing in the waters of the Colony in contravention of the Convention. The Foreign Office replied:* "The claim to a *mare clausum*, if we wished to advance such a claim in respect to the northern part of the Pacific Ocean, could not be theoretically justified. Under Article I of the Convention of 1824 between Russia and the United States, which is still in force, American citizens have a right to fish in all parts of the Pacific Ocean. But under Article IV of the same Convention, the ten years' period mentioned in that Article having expired, we have power to forbid American vessels to visit inland seas, gulfs, harbours, and bays for the purposes of fishing and trading with the natives. That is the limit of our rights, and we have no power to prevent American ships from taking whales in the open sea."

Of course this decision, which made it impossible for the Company to restrain in any way the licence of the whalers, gave the latter an excuse for continuing to act exactly as they chose within the limits of the Colony. From 1843 to 1850 there were constant complaints by the Company of the increasing boldness of the whalers. They were not content with landing on the Aleutian and Kurile Islands, cutting wood wherever they chose, boiling blubber on the shore, and thereby inflicting real damage on the fur industry (especially in the case of the otter, for the least smoke is sufficient to drive it from the coast); they went still further in their arbitrary proceedings. On more than one occasion they destroyed huts belonging to the natives or to the Company, and on receiving notice of the Regulations and Circulars in force prohibiting whaling off the shores of the Colony, they replied with threats or contemptuous language. The whalers asserted that the sea in all latitudes and longitudes was the common property of all; besides, they said, they had a right to exercise their industry under their national flag. Traffic in furs was openly carried on between the natives and the American captains, and when the Colonial authorities made some whalers leave Novoarkhangelsk on that account, they quietly continued the traffic in the Bay of Sitka, and disregarded all protests. The following case also deserves to be noticed: In 1847 one of the whalers came to Behring Island, and on the captain being told that he must not traffic in seal-skins† on a neighbouring small island, he ordered the overseer of the island to be turned off his ship, and immediately went on shore with his men, with the evident intention of disregarding the prohibition.

It was only when active steps were taken to resist them that the whalers left, but before going they cut down a plantation which had been grown with great trouble, the island being without other trees or shrubs. Few of the districts of the Colony escaped the visits of the whalers, which were everywhere accompanied by acts of violence on their part.

Whenever complaints of such acts reached the Company, they took all the steps in their power to protect the country under their administration; but all their efforts led to no satisfactory result. In 1843,
41 almost immediately after the first protest of the Company, the Colonial authorities were alarmed at the large number of whalers engaged round the shores of Kadiak, as the Company's fur trade was certain to suffer from their presence. M. Etolin accordingly

* Letter from the Department of Manufactures and Internal Trade, December 14, 1842, No. 5191. Dielo Arkh. Kom. 1842 goda, No. 14, str. 7.

† The Russian word is "sivutsh," for which the equivalent given in the dictionary is "otary," "sea-lion."

resolved once more to ask the Company to furnish him with more definite instructions in regard to the whalers, *i. e.*, to define the rights of the Governor of the Colony with reference to those captains who, in spite of the prohibition, should enter the bays, harbours, and gulfs of the Russian possessions, or land on the islands. While awaiting a decision in the matter, he resolved to arm one of the ships of the colonial flotilla to act as a cruizer in the waters most infested by the foreign vessels. The cruizer was ordered to avoid most carefully anything which might give rise to a conflict, and to confine herself strictly to observing the whalers. She was on no account to resort to force unless it became necessary to resist an attack. Apart from this measure, M. Etolin suggested the expediency of obtaining the permission of the Government for the colonial cruizer to fly the flag of the Imperial Navy, as that flag would, in certain eventualities, inspire more respect. Finally, he considered that the claim of foreigners to take whales in Russian waters ought certainly to be limited by a line drawn at a distance of at least 3 leagues, or 9 Italian miles, from the shores of the Colony. As an example of the justice of fixing such a limit, and of the advantages to be obtained therefrom, he adduced New Holland and other British possessions, where no whaler would dare to take whales within the 3-league limit.

Unfortunately, these efforts to defend the rights of the Company were not attended with more success than those previously made. Although the Foreign Office, at the request of the Company, informed the Government of the United States of the establishment of cruizers in the Russian Colonies for the purpose of insuring the observation of the Convention of 1824 by foreign ships, no decision was arrived at in regard to the fixing of a limit for whaling, or with reference to the proposal that the Company's cruizer should fly the flag of the Imperial Navy. On the other hand, the Government took occasion to impress upon the Company the importance of great caution being observed by the colonial cruizers in all that concerned foreign ships.

The exact words of the letter from the Foreign Office are as follows: The fixing of a line at sea within which foreign vessels should be prohibited from whaling off our shores would not be in accordance with the spirit of the Convention of 1824, and would be contrary to the provisions of our Convention of 1825 with Great Britain. Moreover, the adoption of such a measure, without preliminary negotiation and arrangement with the other Powers, might lead to protests, since no clear and uniform agreement has yet been arrived at among nations in regard to the limit of jurisdiction at sea."

In 1847 a representation from Governor Tebenkoff in regard to new aggressions on the part of the whalers gave rise to further correspondence. Some time before, in June 1846, the Governor-General of Eastern Siberia had expressed his opinion that, in order to limit the whaling operations of foreigners, it would be fair to forbid them to come within 3 Italian miles of our shores, the ports of Petropavlovsk and Okhotsk to be excluded, and a payment of 100 silver roubles to be demanded at those ports from every vessel for the right of whaling. He recommended that a ship of war should be employed as a cruizer to watch foreign vessels. The Foreign Office expressly stated as follows in reply: "We have no right to exclude foreign ships from that part of the great ocean which separates the eastern shore of Siberia from the north-western shore of America, or to make the payment of a sum of money a condition for allowing them to take whales." The Foreign Office were of opinion that the fixing of the line referred to above would reopen the discussions

formerly carried on between England and France on the subject. The limit of a cannon-shot, that is about 3 Italian miles, would alone give rise to no dispute. The Foreign Office observed, in conclusion, that no Power had yet succeeded in limiting the freedom of fishing in open seas, and that such pretensions had never been recognized by the other Powers. They were confident that the fitting out of colonial cruizers would put an end to all difficulties; there had not yet been time to test the efficacy of this measure.

[Soon after this the whalers began to turn their chief attention to the Sea of Okhotsk.]

In 1850 the corvette "Olivutsa," of the Russian navy, was sent by the Government to cruize in the Northern Pacific. The Company were invited to offer suggestions with regard to the instructions to be given to cruizers.

The following is an extract from their suggestions: "In order to prevent the complete extermination of the whales in the Sea of Okhotsk it is most desirable that an armed cruizer should always be stationed at the Shantar Islands to keep away foreign whalers, at all events until such time as it is found possible altogether to prohibit whaling by foreign ships in that sea." (16th November, 1853, No. 970; Dielo Arkh. Kom. 1842 goda, No. 14, str. 181.)

Some time before the Company had written to the Foreign Office (22nd March, 1853, No. 368, the same Dielo, p. 163): "If it is found impracticable entirely to prohibit for a time fishing by foreigners in the Sea of Okhotsk, as an inland sea, would it not, at any rate, be possible officially to prohibit whalers from coming close to our shores and whaling in the bays and among the islands, detaching one of the cruizers of the Kamtchatka flotilla for this service?"

The instructions to cruizers were approved on the 9th December, 1853. The cruizers were to see that no whalers entered the bays or gulfs, or came within 3 Italian miles of our shores, that is, the shores of Russian America (north of 54° 41′), the Peninsula of Kamtchatka, Siberia, the Kadjak Archipelago, the Aleutian Islands, the Pribyloff and Commander Islands, and the others in Behring Sea, the Kuriles, Sak-
42 halin, the Shantar Islands, and the others in the Sea of Okhotsk to the north of 46° 30′ north. The cruizers were instructed constantly to keep in view that "our Government not only does not wish to prohibit or put obstacles in the way of whaling by foreigners in the northern part of the Pacific Ocean, but allows foreigners to take whales in the Sea of Okhotsk, which, as stated in these instructions, *is, from its geographical position, a Russian inland sea.*"*

* These words are in italics in the original.

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[Translation.]

According to reports from the Colony the number of Russians, half-breeds, and natives under the administration of the Company was, on the 1st January, 1819, as follows:

Locality.	Russians.		Half-breeds.	
	Males.	Females.	Males.	Females.
ovarkhangelsk	198	11	93	111
adiak and neighbouring islands	73	.....	39	.....
kamok Island	2	.....	.....	.....
atmai Factory	4	.....	.....	.....
tkhom Factory	3	.....	1	.....
ort Voskresensky	2	.....	.....	.....
ort Constantine	17	.....	.....	.....
ort Nicholas	11	.....	.....	.....
ort Alexander	11	.....	.....	.....
ss Settlement	27	.....	.....	.....
al Islands	27	.....	.....	.....
nahagak	3	2	.....	.....
Total	378	13	133	111

NATIVES.

Locality.	Males.	Females.	Total.
Kadiak	1,483	1,769	3,252
Novarkhangelsk (Aleuts)	285	61	346
liaksintsi	402	467	869
ihugatsh	172	188	360
maitai	723	748	1,471
galentsi	51	66	117
ednovtsi	294	273	567
the Fox (Lisy) Islands	464	559	1,023
the Seal Islands (Aleuts)	188	191	379
Totals	4,002	4,322	8,384

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No. 6.

SPEECH BY THE HON. CHARLES SUMNER, OF MASSACHUSETTS, ON THE CESSION OF RUSSIAN AMERICA TO THE UNITED STATES IN 1867. H. R. EX. DOC. 177, 40TH CONGRESS, 2ND SESSION, PAGES 124–189.

Mr. PRESIDENT: You have just listened to the reading of the Treaty by which Russia cedes to the United States all her possessions on the North American Continent in consideration of 7,200,000 dollars, to be paid by the United States. On the one side is the cession of a vast country with its jurisdiction and its resources of all kinds, on the other side is the purchase-money. Such is this transaction on its face.

BOUNDARIES AND CONFIGURATION.

In endeavouring to estimate its character I am glad to begin with what is clear and beyond question. I refer to the boundaries fixed by the Treaty. Commencing at the parallel of 54° 40′ north latitude, so famous in our history, the line ascends Portland Channel to the mountains, which it follows on their summits to the point of intersection with the 141° west longitude, which line it ascends to the Frozen Ocean, or, if you please, to the North Pole. This is the eastern boundary, separating this region from the British possessions, and it is

borrowed from the Treaty between Russia and Great Britain in 1825, establishing the relations between these two Powers on this continent. It will be seen that this boundary is old; the rest is new. Starting from the Frozen Ocean, the western boundary descends Behring Straits, midway between the two islands of Krusenstern and Ratmanov, to the parallel of 65° 30′, just below where the Continents of America and Asia approach each other the nearest; and from this point it proceeds in a course nearly south-west through Behring Straits, midway between the Island of St. Lawrence and Cape Chonkotski, to the meridian of 172° west longitude, and thence, in a south-westerly direction, traversing Behring Sea, midway between the Island of Attou on the east, and Copper Island on the west, to the meridian of 193° west longitude, leaving the prolonged group of the Aleutian Islands in the possessions now transferred to the United States, and making the western boundary of our country the dividing line which separates Asia from America.

Look at the map and see the configuration of this extensive region, whose estimated area is more than 570,000 square miles. I speak by the authority of our own Coast Survey. Including the Sitkan Archipelago at the south, it takes a margin of the mainland, fronting on the ocean 30 miles broad and 300 miles long, to Mount St. Elias, the highest peak of the continent, when it turns with an elbow to the west, and then along Behring Straits northerly, when it rounds to the east along the Frozen Ocean. Here are upwards of 4,000 statute miles of coast, indented by capacious bays and commodious harbours without number, embracing the Peninsula of Alaska, one of the most remarkable in the world, 50 miles in breadth and 300 miles in length; piled with mountains, many volcanic, and some still smoking; penetrated by navigable rivers, one of which is among the largest of the world; studded with islands which stand like sentinels on the coast, and flanked by that narrow Aleutian range which, starting from Alaska, stretches far away to Japan, as if America were extending a friendly hand to Asia. This is the most general aspect. There are details specially disclosing maritime advantages and approaches to the sea, which properly belong to this preliminary sketch. According to accurate estimates the coast-line, including bays and islands, is not less than 11,270 miles. In the Aleutian range, besides innumerable islets and rocks, there are not less than fifty-five islands exceeding 3 miles in length; there are seven exceeding 40 miles, with Ounimak, which is the largest, exceeding 73 miles. In our part of Behring Sea there are five considerable islands, the largest of which is St. Lawrence, being more than 96 miles long. Add to all these the group south of the Peninsula of Alaska, including the Shumagins and the magnificent Island of Kodiak, and then the Sitkan group, being archipelago added to archipelago, and the whole together constituting the geographical complement to the West Indies, so that the north west of the continent answers archipelago for archipelago to the south-east.

DISCOVERY OF RUSSIAN AMERICA BY BEHRING, UNDER INSTRUCTIONS FROM PETER THE GREAT.

The title of Russia to all these possessions is derived from prior discovery, which is the admitted title by which all European Powers have held in North and South America, unless we except what England
44 acquired by conquest from France, but here the title of France was derived from prior discovery. Russia, shut up in a distant

terior, and struggling with barbarism, was scarcely known to the her Powers at the time they were lifting their flags in the Western emisphere. At a later day the same powerful genius which made her own as an Empire set in motion the enterprise by which these possessions were opened to her dominion. Peter the Great, himself a shipbuilder and a reformer, who had worked in the ship-yards of England d Holland, was curious to know if Asia and America were separated the sea, or if they constituted one undivided body with different mes, like Europe and Asia. To obtain this information he wrote with s own hand the following instructions, and ordered his Chief Admiral see them carried into execution:

One or two boats with decks to be built at Kamtschatka, or at any other convenient place, with which inquiry should be made in relation to the northerly coasts, see whether they were not contiguous with America, since their end was not known; d this done, they should see whether they could not somewhere find a harbour onging to Europeans or an European ship. They should likewise set apart some n who should inquire after the name and situation of the coasts discovered. Of this an exact journal should be kept, with which they should return to St. Petersrgh. (Müller's "Voyages from Asia to America," by Jeffreys, p. 45.)

The Czar died in the winter of 1725, but the Empress Catharine, faithl to the desires of her husband, did not allow this work to be neglected. tus Behring, a Dane by birth, and a navigator of some experience, as made Commander. The place of embarkation was on the other side the Asiatic Continent. Taking with him officers and ship-builders, e navigator left St. Petersburgh by land on the 5th February, 1725, d commenced the preliminary journey across Siberia, Northern Asia, d the Sea of Okhotsk to the coast of Kamtchatka, which they reached er infinite hardships and delays, sometimes with dogs for horses, and metimes supporting life by eating leather bags, straps, and shoes. ore than three years were passed in this toilsome and perilous journey the place of embarkation. At last, on the 20th July, 1728, the party as able to set sail in a small vessel called the "Gabriel," and described "like the packet-boats used in the Baltic." Steering in a north-east-y direction, Behring passed a large island, which he called St. Lawnce, from the saint on whose day it was seen. This island, which is cluded in the present cession, may be considered as the first point in ssian discovery, as it is also the first outpost of the North American ntinent. Continuing northward, and hugging the Asiatic coast, hring turned back only when he thought he had reached the northstern extremity of Asia, and was satisfied that the two continents re separated from each other. He did not penetrate further north an 67° 30′.

In his voyage Behring was struck by the absence of such great and gh waves as in other places are common to the open sea, and he observed trees swimming in the water, although they were unknown on the iatic coast. Relations of inhabitants, in harmony with these indicans, pointed to "a country at no great distance toward the east." His rk was still incomplete, and the navigator before returning home put th again for this discovery, but without success. By another dreary d journey he made his way back to St. Petersburgh in March 1730, er an absence of five years. Something was accomplished for Rusn discovery, and his own fame was engraved on the Maps of the world. e straits through which he sailed now bear his name, as also does e expanse of sea which he traversed on his way to the straits.

The spirit of discovery continued at St. Petersburgh. A Cossack ief undertaking to conquer the obstinate natives on the north-eastern ast, proposed also "to discover the pretended country on the Frozen

Sea." He was killed by an arrow before his enterprise was completed. Little is known of the result, but it is stated that the navigator whom he had selected, by name Gwosdew, in 1730 succeeded in reaching a "strange coast" between 65° and 66° of north latitude, where he saw people, but could not speak with them for want of an interpreter. This must have been the coast of North America, and not far from the group of islands in Behring Straits, through which the present boundary passes, separating the United States from Russia, and America from Asia.

The desire of the Russian Government to get behind the curtain increased. Behring volunteered to undertake the discoveries that remained to be made. He was created a Commodore, and his old Lieutenants were created Captains. The Senate, the Admiralty, and the Academy of Sciences at St. Petersburgh all united in the enterprise. Several Academicians were appointed to report on the natural history of the coasts visited, among whom was Steller the naturalist, said to be "immortal" from this association. All of these, with a numerous body of officers, journeyed across Siberia, Northern Asia, and the Sea of Okhotsk, to Kamtchatka, as Behring had journeyed before. Though ordered in 1732, the expedition was not able to leave the western coast until the 4th June, 1741, when two well-appointed ships set sail in company "to discover the Continent of America." One of these, called the "St. Paul," was under Commodore Behring; the other, called the "St. Peter," was under Captain Tschirikow. For some time the two kept together, but in a violent storm and fog they were separated, when each continued the expedition alone.

Behring first saw the Continent of North America on the 18th July, 1741, in latitude 58° 28′. Looking at it from a distance, "the country had terrible high mountains that were covered with snow." Two days later he anchored in a sheltered bay near a point which he called from the saint-day on which he saw it, Cape St. Elias. He was in the shadow of Mount St. Elias. On landing he found deserted huts, fire-places, hewn wood, household furniture, an arrow, edge-tools of copper, with "store of red salmon." Here also several birds, unknown in Siberia, were noticed by the faithful Steller, among which was the blue jay, of a peculiar species, now called by his name.

Steering northward, Behring found himself constrained by the elbow in the coast to turn westward, and then in a southerly direction. Hugging the shore, his voyage was constantly arrested by islands without number, among which he zigzagged to find his way; several times he landed. On one of these occasions he saw natives, who wore "upper garments of whale's guts, breeches of seal-skins, caps of the skins of sea-lions, adorned with various feathers, especially those of hawks." These "Americans," as they are called, were fishermen, without bows and arrows. They regaled the Russians with "whale's flesh," but declined strong drink. One of them, on receiving a cup of brandy, "spit it out again as soon as he tasted it, and cried aloud, as if complaining to his countrymen how ill he had been used." This was on one of the Shumagin Islands, near the southern coast of the Peninsula of Alaska.

Meanwhile, the other solitary ship proceeding on its way, had sighted the same coast on the 15th July, 1741, in the latitude of 56°. Anchoring at some distance from the steep and rocky cliffs before him, Tschirikow sent his mate with the long boat and ten of his best men, provided with small-arms and a brass cannon, to inquire into the nature of the country and to obtain fresh water. The long boat disappeared in a small wooded bay, and was never seen again. Thinking it might have been

damaged in landing, the Captain sent his boatswain with the small boat and carpenters well armed to furnish necessary assistance. The small boat disappeared also, and was never seen again. At the same time great smoke was observed continually ascending from the shore.

Shortly afterwards two boats filled with natives sallied forth and lay at some distance from the vessel, when, crying "Agai, Agai," they put back to the shore. Sorrowfully the Russian navigator turned away, not knowing the fate of his comrades, and unable to help them. This was not far from Sitka.

Such was the first discovery of these north-western coasts, and such are the first recorded glimpses of the aboriginal inhabitants. The two navigators had different fortunes. Tschirikow, deprived of his boats, and therefore unable to land, hurried home. Adverse winds and storms interfered. He supplied himself with fresh water only by distilling the ocean or pressing rain from the sails. But at last on the 9th October he reached Kamtchatka, with his ship's company of seventy diminished to forty-nine.

During this time Behring was driven, like Ulysses, on the uncertain waves. A single tempest raged for seventeen days, so that Andrew Hosselberg, the ancient pilot, who had known the sea for fifty years, declared that he had seen nothing like it in his life. Scurvy came with its disheartening horrors. The Commodore himself was a sufferer. Rigging broke; cables snapped; anchors were lost. At last the tempest-tossed vessel was cast upon a desert island, then without a name, where the Commodore, sheltered in a ditch and half covered with sand as a protection against cold, died on the 8th December, 1741. His body after his decease was "scraped out of the ground" and buried on this island, which is called by his name, and constitutes an outpost of the Asiatic Continent. Thus the Russian navigator, after the discovery of America, died in Asia. Russia, by the recent demarcation, does not fail to retain his last resting-place among her possessions.

TITLE OF RUSSIA.

For some time after these expeditions, by which Russia achieved the palm of discovery, Imperial enterprise slumbered in those seas. The knowledge already acquired was continued and confirmed only by private individuals, who were led there in quest of furs. In 1745 the Aleutian Islands were discovered by an adventurer in search of sea-otters. In successive voyages all these islands were visited for similar purposes. Among these was Oonalaska, the principal of the group of Fox Islands, constituting a continuation of the Aleutian Islands, whose inhabitants and productions were minutely described.

In 1768 private enterprise was superseded by an expedition ordered by the Empress Catharine, which, leaving Kamtchatka, explored this whole archipelago and the Peninsula of Alaska, which to the islanders stood for the whole continent. Shortly afterwards all these discoveries, beginning with those of Behring and Tschirikow, were verified by the great English navigator Captain Cook. In 1778 he sailed along the north-western coast, "near where Tschirikow anchored in 1741;" then again in sight of mountains "wholly covered with snow from the highest summit down to the sea-coast," "with the summit of an elevated mountain above the horizon," which he supposed to be the Mount St. Elias of Behring; then by the very anchorage of Behring; then among the islands through which Behring zigzagged, and along the coast by the Island of St. Lawrence until arrested by ice. In any

doubt existed with regard to Russian discoveries it was removed by the authentic Report of this navigator, who shed such a flood of light upon the geography of this region.

Such from the beginning is the title of Russia, dating at least from 1741. The coast of British Columbia, next below, was discovered by Vancouver in 1790, and that of Oregon, still further down, by Gray, who, sailing from Boston in 1789, entered the Columbia River in 1790, so that the title of Russia is the earliest on the north-western coast. I have not stopped to quote volume and page, but I beg to be understood as following approved authorities, and I refer especially to the Russian work of Müller, already cited, on the "Voyages from Asia to America;" the volume of Coxe on "Russian Discoveries," with its supplement on the "Comparative View of Russian Discoveries;" the volume of Sir John Barrow, on "Arctic Voyages;" Burney's "Russian and North-eastern Voyages;" and the third voyage of Captain Cook, unhappily interrupted by his tragical death from the natives of the Sandwich Islands, but not until after his exploration of this coast.

There were at least four other Russian expeditions by which this title was confirmed, if it needed any confirmation. The first was ordered by the Empress Catharine in 1785. It was under the command of Commodore Billings, an Englishman in the service of Russia, and was narrated from the original papers by Martin Sauer, Secretary of the expedition. In the instructions from the Admiralty at St. Petersburgh the Commodore was directed to take possession of "such coasts and islands as he shall first discover, whether inhabited or not, that cannot be disputed, and are not yet subject to any European Power, with consent of the inhabitants, if any," and this was to be accomplished by setting up "posts marked with the Arms of Russia, with letters indicating the time of sovereignty, a short account of the people, their voluntary submission to the Russian sovereignty, and that this was done under the glorious reign of the great Catharine II." (Billings' "Northern Russia," Appendix.)

The next was in 1803, in the interest of the Russian-American Company. There were two ships, one under the command of Captain Lisiansky, and the other of Captain Krusenstern, of the Russian navy. It was the first voyage round the world by the Russian Government, and lasted three years. During its progress these ships visited separately the north-west coast of America, and especially Sitka and the Island of Kodiak.

Still another enterprise organized by the celebrated Minister Count Romanzoff, at his expense, left Russia in 1815, under the command of Lieutenant Kotzebue, an officer of the Russian navy, and son of the German dramatist whose assassination darkened the return of the son from his long voyage. It is enough for the present to say of this expedition that it has left its honourable traces on the coast even as far as the Frozen Ocean.

There remains the enterprise of Lütke, at the time Captain, and afterwards Admiral, in the Russian navy, which was a voyage round the world, embracing especially the Russian possessions, commenced in 1826, and described in French with instructive fulness. With him sailed the German naturalist Kittlitz, who has done so much to illustrate the natural history of this region.

A FRENCH ASPIRATION ON THIS COAST.

So little was the Russian title recognized for some time, that when the unfortunate expedition of La Pérouse, with the frigates "Boussole" and "Astrolabe," stopped on this coast in 1787, he did not hesitate to consider the friendly harbour, in latitude 58° 36′, where he was moored, as open to permanent occupation. Describing this harbour, which he named "Port des Français," as sheltered behind a breakwater of rocks, with a calm sea, and with a mouth sufficiently large, he says that Nature seemed to have created at this extremity of the world a port like that of Toulon, but vaster in plan and accommodation; and then, considering that it had never been discovered before, that it was situated 33 leagues north-west of Remedios, the limit of Spanish navigation, about 284 leagues from Nootka, and 100 leagues from Prince William Sound, the mariner records his judgment that "if the French Government had any project of a factory on this coast, no nation could have the slightest right to oppose it."—(La Pérouse, "Voyage," Tom. 2, p. 147.)

Thus quietly was Russia dislodged. The frigates sailed further on their voyage, and never returned to France. Their fate was unknown, until, after fruitless search and the lapse of a generation, their shipwrecked hulls were accidentally found on a desert island of the Southern Pacific. The unfinished journal of La Pérouse recording his visit to this coast had been sent overland by way of Kamtchatka and Siberia to France, where it was published by a Decree of the National Assembly, thus making known his supposed discovery and his aspiration.

EARLY SPANISH CLAIM.

Spain also has been a claimant. In 1775 Bodega, a Spanish navigator, seeking new opportunities to plant the Spanish flag, reached the parallel of 58° on this coast, not far from Sitka, but this supposed discovery was not followed by any immediate assertion of dominion. The universal aspiration of Spain had embraced this whole region even at an early day, and shortly after the return of Bodega another enterprise was equipped to verify the larger claim, being nothing less than the original title as discoverer of the straits between America and Asia, and of the conterminous continent under the name of Anian. This curious episode is not out of place in this brief history. It has two branches: one concerning early maps on which straits are represented between America and Asia under the name of Anian; the other concerning a pretended attempt by a Spanish navigator at an early day to find these straits.

There can be no doubt that early maps exist with north-western straits marked "Anian." There are two in the Congressional Library in atlases of the years 1717 and 1680; but these are of a date
17 comparatively modern. Engel, in his "Mémoires Géographiques," mentions several earlier, which he believes to be genuine. There is one purporting to be by Zaltieri, and bearing date 1566, an authentic pen-and-ink copy of which is now before me from the collection of our own Coast Survey. On this very interesting map, which is without latitude or longitude, the western coast of the continent is delineated with straits separating it from Asia not unlike the Behring Straits in outline and with the name in Italian "Stretto di Anian." Southward the coast has a certain conformity with what is now known to exist. Below the straits is an indentation corresponding to Bristol Bay; then a peninsula somewhat broader than that of Alaska; then

comes the elbow of the coast; then lower down three islands, not unlike Sitka, Queen Charlotte, and Vancouver; and then, further south, is the peninsula of Lower California. Sometimes the story of Anian is explained by the voyage of the Portuguese navigator Caspar de Cortereal in 1500–1505, when, on reaching Hudson Bay in quest of a passage round America, he imagined that he had found it, and proceeded to name his discovery "in honour of two brothers who accompanied him." Very soon maps began to record the Straits of Anian; but this does not explain the substantial conformity of the early delineation with the reality, which seems truly remarkable.

The other branch of inquiry is more easily disposed of. This turns on a Spanish document entitled "Relation of the Discovery of the Strait of Anian, made by me, Captain Lorenzo Ferren Maldonado," purporting to be written at the time, although it did not see the light till 1781, when it was published in Spain, and shortly afterward became the subject of a memoir before the French Academy. If this early account of a north-west passage from the Atlantic to the Pacific were authentic the whole question would be settled, but recent geographers indignantly discarded it as a barefaced imposture. Clearly Spain once regarded it otherwise; for her Government in 1789 sent out an expedition "to discover the strait by which Maldonado was supposed to have passed in 1588 from the coast of Labrador to the Great Ocean." The expedition was not successful, and nothing more has been heard of any claim from this pretended discovery. The story of Maldonado has taken its place in the same category with that of Munchausen.

REASONS FOR THIS CESSION BY RUSSIA.

Turning from this question of title, which time and testimony have already settled, I meet the inquiry, Why does Russia part with possessions thus associated with the reign of her greatest Emperor and filling an important chapter of geographical history? On this head I have no information which is not open to others. But I do not forget that the first Napoleon in parting with Louisiana was controlled by three several considerations: first, he needed the purchase-money for his Treasury; secondly, he was unwilling to leave this distant unguarded territory a prey to Great Britain in the event of hostilities which seemed at hand; and thirdly, he was glad, according to his own remarkable language, "to establish for ever the power of the United States and give to England a maritime rival destined to humble her pride." Such is the record of history. Perhaps a similar record may be made hereafter with regard to the present cession. It is sometimes imagined that Russia, with all her great Empire, is financially poor, so that these few millions may not be unimportant to her. It is by foreign loans that her railroads have been built and her wars have been aided. All, too, must see that in those "coming events," which now more than ever "cast their shadows before," it will be for her advantage not to hold outlying possessions from which thus far she has obtained no income commensurate with the possible expense for their protection. Perhaps, like a wrestler, she now strips for the contest, which I trust sincerely may be averted. Besides, I cannot doubt that her enlightened Emperor, who has given pledges to civilization by an unsurpassed act of emancipation, would join the first Napoleon in a desire to enhance the maritime power of the United States.

These general considerations are reinforced when we call to mind the little influence which Russia has thus far been able to exercise in this

region. Though possessing dominion over it for more than a century this gigantic Power has not been more genial or productive there than the soil itself. Her Government there is little more than a name or a shadow. It is not even a skeleton. It is hardly visible. Its only representative is a Fur Company, to which has been added latterly an Ice Company. The immense country is without form and without light; without activity and without progress. Distant from the Imperial capital, and separated from the huge bulk of Russian Empire, it does not share the vitality of a common country. Its life is solitary and feeble. Its Settlements are only encampments or lodges. Its fisheries are only a petty perquisite, belonging to local or personal adventurers rather than to the commerce of nations.

In these statements I follow the record. So little were these possessions regarded during the last century that they were scarcely recognized as a component part of the Empire. I have now before me an authentic map, published by the Academy of Sciences at St. Petersburgh in 1776, and reproduced at London in 1787, entitled "General Map of the Russian Empire," where you will look in vain for Russian America, unless we accept that link of the Aleutian chain nearest to Asia, which appears to have been incorporated under the Empress Anna at the same time with Siberia. (See Coxe's "Russian Discoveries.") Alexander Humboldt, whose insight into geography was unerring, in his great work on "New Spain," published in 1811, after stating that he is able from official documents to give the position of the Russian factories on the American Continent, says that they are "nothing but sheds and cabins employed as magazines of furs." He remarks further that "the larger part of these small Russian Colonies do not communicate with each other except by sea," and then, putting us on our guard not to expect too much from a name, he proceeds to say that "the new denomination of *Russian America* or *Russian possessions* on the new continent must not make us think that the coasts of Behring's Basin, the Peninsula of Alaska, or the country of Tchuktchi have become *Russian provinces* in the sense given to this word, when we speak of the Spanish Provinces of Sonora or New Biscay." (Humboldt, "Essai Politique sur La Nouvelle-Espagne," Tom. I, pp. 344, 345.) Here is a distinction between the foothold of Spain in California and the foothold of Russia in North America, which will at least illustrate the slender power of the latter in this region.

In ceding possessions so little within the sphere of her Empire, embracing more than 100 nations or tribes, Russia gives up no part of herself, and even if she did the considerable price paid, the alarm of war which begins to fill our ears, and the sentiments of friendship declared for the United States, would explain the transaction.

THE NEGOTIATION, IN ITS ORIGIN AND COMPLETION.

I am not able to say when the idea of this cession first took shape. I have heard that it was as long ago as the Administration of Mr. Polk. It is within my knowledge that the Russian Government was sounded on the subject during the Administration of Mr. Buchanan. This was done through Mr. Gwin, at the time Senator of California, and Mr. Appleton, Assistant Secretary of State. For this purpose the former had more than one interview with the Russian Minister at Washington some time in December 1859, in which, while professing to speak for the President unofficially, he represented "that Russia was too far off to make the most of these possessions; and that as we are near, we can derive more from them." In reply to an inquiry of the Russian Minister

Mr. Gwin said that "the United States could go as high as 5,000,000 dollars for the purchase," on which the former made no comment. Mr. Appleton, on another occasion, said to the Minister that "the President thought that the acquisition would be very profitable to the States on the Pacific; that he was ready to follow it up, but wished to know in advance if Russia was ready to cede; that if she were, he would confer with his Cabinet and influential Members of Congress." All this was unofficial; but it was promptly communicated to the Russian Government, who seem to have taken it into careful consideration. Prince Gortschakow, in a despatch which reached here early in the summer of 1860, said that "the offer was not what might have been expected; but that it merited mature reflection: that the Minister of Finance was about to inquire into the condition of these possessions, after which Russia would be in a condition to treat." The Prince added for himself that "he was by no means satisfied personally that it would be for the interest of Russia politically to alienate these possessions; that the only consideration which could make the scales incline that way would be the prospect of great financial advantages; but that the sum of 5,000,000 dollars does not seem in any way to represent the real value of these possessions," and he concluded by asking the Minister to tell Mr. Appleton and Senator Gwin that the sum offered was not considered "an equitable equivalent." The subject was submerged by the Presidential election which was approaching, and then by the rebellion. It will be observed that this attempt was at a time when politicians who believed in the perpetuity of slavery still had power. Mr. Buchanan was President, and he employed as his intermediary a known sympathizer with slavery, who shortly afterward became a rebel. Had Russia been willing, it is doubtful if this controlling interest would have sanctioned any acquisition too far north for slavery.

Meanwhile, the rebellion was brought to an end, and peaceful enterprise was renewed, which on the Pacific coast was directed toward the Russian possessions. Our people there, wishing new facilities to obtain fish, fur, and ice, sought the intervention of the National Government. The Legislature of Washington Territory, in the winter of 1866, adopted a Memorial to the President of the United States, entitled "in reference to the cod and other fisheries," as follows:

To his Excellency Andrew Johnson, President of the United States:

Your memorialists, the Legislative Assembly of Washington Territory, beg leave to show that abundance of codfish, halibut, and salmon of excellent quality have been found along the shores of the Russian possessions. Your memorialists respectfully request your Excellency to obtain such rights and privileges of the Government of Russia as will enable our fishing-vessels to visit the ports and harbours of its possessions to the end that fuel, water, and provisions may be easily obtained, that our sick and disabled fishermen may obtain sanitary assistance, together with the privilege of curing fish and repairing vessels in need of repairs. Your memorialists further request that the Treasury Department be instructed to forward to the Collector of Customs of this Puget Sound District such fishing licences, abstract journals, and log-books as will enable our hardy fishermen to obtain the bounties now provided and paid to the fishermen in the Atlantic States. Your memorialists finally pray your Excellency to employ such ships as may be spared from the Pacific Naval Fleet in exploring and surveying the fishing banks known to navigators
49 to exist along the Pacific coast from the Cortes Bank to Behring Straits, and as in duty bound your memorialists will ever pray.

Passed the House of Representatives, the 10th January, 1866.

(Signed) EDWARD ELDRIDGE,
Speaker, House of Representatives.

Passed the Council, the 13th January, 1866.

(Signed) HARVEY K. HINES,
President of the Council.

This Memorial on its presentation to the President in February 1866 was referred to the Secretary of State, by whom it was communicated to M. de Stoeckl, the Russian Minister, with remarks on the importance of some early and comprehensive arrangement between the two Powers in order to prevent the growth of difficulties, especially from the fisheries in that region.

Shortly afterwards another influence was felt. Mr. Cole, who had been recently elected to the Senate from California, acting in behalf of certain persons in that State, sought to obtain from the Russian Government a license or franchise to gather furs in a portion of its American possessions. The Charter of the Russian-American Company was about to expire. This Company had already underlet to the Hudson Bay Company all its franchise on the mainland between 54° 40′ and Mount St. Elias; and now it was proposed that an American Company, holding direct from the Russian Government, should be substituted for the latter. The mighty Hudson Bay Company, with its head-quarters in London, was to give way to an American Company, with its head-quarters in California. Among the letters on this subject addressed to Mr. Cole, and now before me, is one dated at San Francisco, the 10th April, 1866, in which this scheme is developed as follows:

There is at the present time a good chance to organize a Fur Trading Company to trade between the United States and the Russian possessions in America, and as the charter formerly granted to the Hudson Bay Company has expired this would be the opportune moment to start in.

* * * * * * *

I should think that by a little management this Charter could be obtained from the Russian Government for ourselves, as I do not think they are very willing to renew the Charter of the Hudson Bay Company, and I think they would give the preference to an American Company, especially if the Company should pay to the Russian Government 5 per cent. on the gross proceeds of their transactions, and also aid in civilizing and ameliorating the condition of the Indians by employing missionaries, if required by the Russian Government. For the faithful performance of the above we ask a Charter for the term of twenty-five years, to be renewed for the same length of time if the Russian Government finds the Company deserving. The Charter to invest us with the right of trading in all the country between the British-American line and the Russian archipelago.

* * * * * * *

Remember, we wish for the same Charter as was formerly granted to the Hudson Bay Company, and we offer in return more than they did.

Another correspondent of Mr. Cole, under date of San Francisco, the 7th September, 1866, wrote as follows:

I have talked with a man who has been on the coast and in the trade for ten years past, and he says it is much more valuable than I have supposed, and I think it very important to obtain it if possible.

The Russian Minister at Washington, whom Mr. Cole saw repeatedly upon this subject, was not authorized to act, and the latter, after conference with the Department of State, was induced to address Mr. Clay, Minister of the United States at St. Petersburgh, who laid the application before the Russian Government. This was an important step. A letter from Mr. Clay, dated at St. Petersburgh as late as the 1st February, 1867, makes the following revelation:

The Russian Government has already ceded away its rights in Russian America for a term of years, and the Russo-American Company has also ceded the same to the Hudson Bay Company. This lease expires in June next, and the President of the Russo-American Company tells me that they have been in correspondence with the Hudson Bay Company about a renewal of the lease for another term of twenty-five or thirty years. Until he receives a definite answer he cannot enter into negotiations with us or your California Company. My opinion is that if he can get off with the Hudson Bay Company he will do so, when we can make some arrangements with the Russo-American Company.

Some time had elapsed since the original attempt of Mr. Gwin, also a Senator from California, and it is probable that the Russian Government had obtained information which enabled it to see its way more clearly. It will be remembered that Prince Gortschakow had promised an inquiry, and it is known that in 1861 Captain-Lieutenant Golowin, of the Russian navy, made a detailed Report on these possessions. Mr. Cole had the advantage of his predecessor. There is reason to believe, also, that the administration of the Fur Company had not been entirely satisfactory, so that there were well-founded hesitations with regard to the renewal of its franchise. Meanwhile, in October 1866, M. de Stoeckl, who had long been the Russian Minister at Washington, and enjoyed in a high degree the confidence of our Government, returned home on a leave of absence, promising his best exertions to promote good relations between the two countries. While he was at St. Petersburgh the applications from the United States were under consideration; but the Russian Government was disinclined to any minor arrangement of the character proposed. Obviously something like a crisis was at hand with regard to these possessions. The existing government was not adequate. The franchises granted there were about to terminate. Something must be done. As M. de Stoeckl was leaving in February to return to his post the Archduke Constantine, the brother and chief adviser of the Emperor, handed him a map with the lines in our Treaty marked upon it, and told him he might treat for this cession. The Minister arrived in Washington early in March. A negotiation was opened at once with our Government. Final instructions were received by the Atlantic cable from St. Petersburgh on the 29th March, and at 4 o'clock on the morning of the 30th March this important Treaty was signed by Mr. Seward on the part of the United States, and by M. de Stoeckl on the part of Russia.

Few Treaties have been conceived, initiated, prosecuted, and completed in so simple a manner without Protocols or despatches. The whole negotiation will be seen in its result, unless we except two brief notes, which constitute all that passed between the negotiators. These have an interest general and special, and I conclude the history of this transaction by reading them:

DEPARTMENT OF STATE,
Washington, March 25, 1867.

SIR: With reference to the proposed Convention between our respective Governments, for a cession by Russia of her American territory to the United States, I have the honour to acquaint you that I must insist upon that clause in the 6th Article of the draft which declares the cession to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions by any associated Companies, whether corporate or incorporate, Russian or any other, &c., and must regard it as an ultimatum. With the President's approval, however, I will add 200,000 dollars to the consideration money on that account.

I avail, &c.

(Signed) WILLIAM H. SEWARD.

M. EDWARD DE STOECKL, &c.

[Translation.]

WASHINGTON, *March 17 (29), 1867.*

Mr. SECRETARY OF STATE: I have the honour to inform you that, by a telegram dated the 16th (28th) of this month from St. Petersburgh, Prince Gortschakow informs me that His Majesty the Emperor of All the Russias gives his consent to the cession of the Russian possessions on the American Continent to the United States for the stipulated sum of 7,200,000 dollars in gold, and that His Majesty the Emperor invests me with full powers to negotiate and sign the Treaty.

Please accept, &c.

(Signed) STOECKL.

To Honourable WILLIAM H. SEWARD,
Secretary of State of the United States.

THE TREATY.

The treaty begins with the declaration that "the United States of America and His Majesty the Emperor of All the Russias, being desirous of strengthening, if possible, the good understanding which exists between them," have appointed Plenipotentiaries, who have proceeded to sign Articles, wherein it is stipulated on behalf of Russia that "His Majesty the Emperor of All the Russias agrees to cede to the United States by this Convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by His said Majesty on the Continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth;" and it is stipulated on behalf of the United States that, "in consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the ratification of this Convention, to the Diplomatic Representative or other Agent of His Majesty the Emperor of All the Russias duly authorized to receive the same, 7,200,000 dollars in gold." The ratifications are to be exchanged within three months from the date of the Treaty, or sooner, if possible.

Beyond the consideration founded on the desire of "strengthening the good understanding" between the two countries, there is the pecuniary consideration already mentioned, which underwent a
51 change in the progress of the negotiation. The sum of 7,000,000 dollars was originally agreed upon; but when it was understood that there was a Fur Company and also an Ice Company enjoying monopolies under the existing Government, it was thought best that these should be extinguished, in consideration of which our Government added 200,000 dollars to the purchase-money, and the Russian Government in formal terms declared "the cession of territory and dominion to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated Companies, whether corporate or incorporate, or by any parties, except merely private individual property-holders." Thus the United States receive this cession free of all incumbrances, so far at least as Russia is in a condition to make it. The Treaty proceeds to say that "the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion and appurtenances thereto." In other words, Russia conveys all that she has to convey.

QUESTIONS ARISING UNDER THE TREATY.

There are questions not unworthy of attention, which arise under the Treaty between Russia and Great Britain, fixing the eastern limits of these possessions, and conceding certain privileges to the latter Power. By this Treaty, signed at St. Petersburgh on the 28th February, 1825, after fixing the boundaries between the Russian and British possessions, it is provided that "for the space of *ten years* the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, gulfs, havens, and creeks on the coast for the purpose of fishing and of trading with the natives;" and also that "for the space of *ten years* the port of Sitka or Novo-Archangelsk shall be open to the commerce and vessels of British subjects." (Hertslet's "Commercial Treaties," vol. ii, p. 365.)

In the same Treaty it is also provided that "the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall *for ever* enjoy the right of navigating freely and without any hindrance whatever all the rivers and streams which, in their course toward the Pacific Ocean, may cross the line of demarcation." (*Ibid.*)

Afterwards a Treaty of Commerce and Navigation between Russia and Great Britain was signed at St. Petersburgh on the 11th January, 1843, subject to be terminated on notice from either party at the expiration of ten years, in which it is provided that "in regard to commerce and navigation in the Russian possessions on the north-west coast of America the Convention of the 28th February, 1825, continues in force." (*Ibid.*, vol. vi, p. 767.)

Then ensued the Crimean war between Russia and Great Britain, effacing or suspending Treaties. Afterwards another Treaty of Commerce and Navigation was signed at St. Petersburgh on the 12th January, 1859, subject to be terminated on notice from either party at the expiration of ten years, which repeats the last provision. (*Ibid.*, vol. x, p. 1063.)

Thus we have three different stipulations on the part of Russia: one opening seas, gulfs, and havens on the Russian coast to British subjects for fishing and trading with the natives; the second making Sitka a free port to British subjects; and the third making British rivers which flow through the Russian possessions for ever free to British navigation. Do the United States succeed to these stipulations?

Among these I make a distinction in favour of the last, which by its language is declared to be "for ever," and may have been in the nature of an equivalent at the settlement of the boundaries between the two Powers. But whatever may be its terms or its origin it is obvious that it is nothing but a declaration of public law as it has always been expounded by the United States and is now recognized on the Continent of Europe. While pleading with Great Britain in 1826 for the free navigation of the St. Lawrence, Mr. Clay, who was at the time Secretary of State, said that "the American Government did not mean to contend for any principle the benefit of which, in analogous circumstances, it would deny to Great Britain." (Wheaton's "Elements of International Law," Part II, cap. 4.) During the same year Mr. Gallatin, our Minister in London, when negotiating with Great Britain for the adjustment of our boundaries on the Pacific, proposed that "if the line should cross any of the branches of the Columbia at points from which they are navigable by boats to the main stream the navigation of both branches and of the main stream should be perpetually free and common to the people of both nations." At an earlier day the United States made the same claim with regard to the Mississippi, and asserted as a general principle that "if the right of the upper inhabitants to descend the stream was in any case obstructed it was an act by a stronger society against a weaker, condemned by the judgment of mankind." (*Ibid.*) By these admissions our country is estopped, even if the public law of the European Continent, first declared at Vienna with regard to the Rhine, did not offer an example which we cannot afford to reject. I rejoice to believe that on this occasion we shall apply to Great Britain the generous rule which from the beginning we have claimed for ourselves.

The two other stipulations are different in character. They are not declared to be "for ever," and do not stand on any principle of public law. Even if subsisting now they cannot be onerous. I doubt much

if they are subsisting now. In succeeding to the Russian possessions it does not follow that the United States succeed to ancient obligations assumed by Russia, as if, according to a phrase of the common
52 law, they are "covenants running with the land." If these stipulations are in the nature of *servitudes* they depend for their duration on the sovereignty of Russia, and are *personal* or *national* rather than *territorial*. So at least I am inclined to believe. But it is hardly profitable to speculate on a point of so little practical value. Even if "running with the land" these *servitudes* can be terminated at the expiration of ten years from the last Treaty by a notice, which equitably the United States may give, so as to take effect on the 12th January, 1869. Meanwhile, during this brief period, it will be easy by Act of Congress in advance to limit importations at Sitka, so that this "free port" shall not be made the channel or doorway by which British goods may be introduced into the United States free of duty.

GENERAL CONSIDERATIONS ON THE TREATY.

From this survey of the Treaty, as seen in its origin and the questions under it, I might pass at once to a survey of the possessions which have been conveyed; but there are other matters of a more general character which present themselves at this stage and challenge the judgment. These concern nothing less than the unity, power, and grandeur of the Republic, with the extension of its dominion and its institutions. Such considerations, where not entirely inapplicable, are apt to be controlling. I do not doubt that they will in a great measure determine the fate of this Treaty with the American people. They are patent, and do not depend on research or statistics. To state them is enough.

ADVANTAGES TO THE PACIFIC COAST.

1. Foremost in order, if not in importance, I put the desires of our fellow-citizens on the Pacific coast, and the special advantages which they will derive from this enlargement of boundary. They were the first to ask for it, and will be the first to profit by it. While others knew the Russian possessions only on the map they knew them practically in their resources. While others were still indifferent they were planning how to appropriate Russian peltries and fisheries. This is attested by the Resolutions of the Legislature of Washington Territory; also by the exertions at different times of two Senators from California, who, differing in political sentiments and in party relations, took the initial steps which ended in this Treaty.

These well-known desires were founded, of course, on supposed advantages; and here experience and neighbourhood were prompters. Since 1854 the people of California have received their ice from the fresh-water lakes in the Island of Kodiak, not far westward from Mount St. Elias. Later still their fishermen have searched the waters about the Aleutians and the Shumagins, commencing a promising fishery. Others have proposed to substitute themselves to the Hudson Bay Company in their franchise on the coast. But all are looking to the Orient, as in the time of Columbus, although like him they sail to the West. To them China and Japan, those ancient realms of fabulous wealth, are the Indies. To draw this commerce to the Pacific coast is no new idea. It haunted the early navigators. Meares, the Englishman, whose voyage in the intervening seas was in 1789, closes his volumes with an essay, entitled "The Trade between the North-West Coast of America and China," in the course of which he dwells on the "great and very valuable source

of commerce" afforded by China as "forming a chain of trade between Hudson Bay, Canada, and the north-west coast," and then he exhibits on the American side the costly furs of the sea otter, which are still so much prized in China; "mines which are known to lie between the latitudes 40° and 60° north;" and also an "inexhaustible supply" of ginseng, for which there is still such a demand in China that even Minnesota, at the head-waters of the Mississippi, supplies her contribution. His catalogue might be extended now.

As a practical illustration of this idea, it may be mentioned that for a long time most if not all the sea-otter skins of this coast found their way to China, excluding even Russia herself. China was the best customer, and therefore Englishmen and Americans followed the Russian Company in carrying these furs to her market, so that Pennant, the English naturalist, impressed by the peculiar advantages of this coast, exclaimed, "What a profitable trade with China might not a Colony carry on were it possible to penetrate to that part of the country by means of rivers and lakes!" But under the present Treaty this coast is ours.

The absence of harbours at present belonging to the United States on the Pacific limits the outlets of the country. On that whole extent, from Panamá to Puget Sound, the only harbour of any considerable value is San Francisco. Further north the harbours are abundant, and they are all nearer to the great marts of Japan and China. But San Francisco itself will be nearer by the way of the Aleutians than by Honolulu. The projection of maps is not always calculated to present an accurate idea of distances From measurement on a globe it appears that a voyage from San Francisco to Hong Kong by the common way of the Sandwich Islands is 7,140 miles, but by way of the Aleutian Islands it is only 6,060 miles, being a saving of more than 1,000 miles, with the enormous additional advantage of being obliged to carry much less coal. Of course a voyage from Sitka, or from Puget Sound, the terminus of the Northern Pacific Railroad, would be shorter still.

The advantages to the Pacific coast have two aspects, one domestic and the other foreign. Not only does the Treaty extend the
53 coasting trade of California, Oregon, and Washington Territory northward, but it also extends the base of commerce with China and Japan.

To unite the east of Asia with the west of America is the aspiration of commerce now as when the English navigator recorded his voyage. Of course whatever helps this result is an advantage. The Pacific Railroad is such an advantage, for, though running westward, it will be, when completed, a new highway to the East. This Treaty is another advantage, for nothing can be clearer than that the western coast must exercise an attraction which will be felt in China and Japan just in proportion as it is occupied by a commercial people communicating readily with the Atlantic and with Europe. This cannot be done without consequences not less important politically than commercially. Owing so much to the Union, the people there will be bound to it anew, and the national unity will receive another confirmation. Thus the whole country will be a gainer. So are we knit together that the advantages to the Pacific coast will contribute to the general welfare.

EXTENSION OF DOMINION.

2. The extension of dominion is another consideration, calculated to captivate the public mind. Few are so cold or philosophical as to regard *with insensibility* a widening of the bounds of country. Wars have

been regarded as successful when they have given a new territory. The discoverer who had planted the flag of his Sovereign on a distant coast has been received as a conqueror. The ingratitude which was shown to Columbus during his later days was compensated by the epitaph that he had given a new world to Castile and Leon. His discoveries were continued by other navigators, and Spain girdled the earth with her possessions. Portugal, France, Holland, England, each followed the example of Spain and rejoiced in extended Empire.

Our territorial acquisitions are among the landmarks of our history. In 1803 Louisiana, embracing the valley of the Mississippi, was acquired from France for 15,000,000 dollars. In 1819 Florida was acquired from Spain for 3,000,000 dollars. In 1845 Texas was annexed without any purchase, but subsequently her debt was assumed to the amount of 7,500,000 dollars. In 1848 California, New Mexico, and Utah were acquired from Mexico after war, and on payment of 15,000,000 dollars. In 1854 Arizona was acquired from Mexico for 10,000,000 dollars. And now it is proposed to acquire Russian America.

The passion for acquisition, which is so strong in the individual, is not less strong in the community. A nation seeks an outlying territory as an individual seeks an outlying farm. The passion shows itself constantly. France, passing into Africa, has annexed Algeria. Spain set her face in the same direction, but without the same success. There are two Great Powers with which annexation has become a habit. One is Russia, which from the time of Peter the Great has been moving her flag forward in every direction, so that on every side her limits have been extended. Even now the report comes that she is lifting her southern landmarks in Asia, so as to carry her boundary to India. The other annexationist is Great Britain, which from time to time adds another province to her Indian dominion. If the United States have from time to time added to their dominion they have only yielded to the universal passion, although I do not forget that the late Theodore Parker was accustomed to say that among all people the Anglo-Saxons were remarkable for "a greed of land." It was land, not gold, that aroused the Anglo-Saxon phlegm. I doubt, however, if this passion be stronger with us than with others, except, perhaps, that in a community where all participate in government the national sentiments are more active. It is common to the human family. There are few anywhere who could hear of a considerable accession of territory, obtained peacefully and honestly, without a pride of country, even if at certain moments the judgment hesitated. With an increased size on the map there is an increased consciousness of strength, and the citizen throbs anew as he traces the extending line.

EXTENSION OF REPUBLICAN INSTITUTIONS.

3. More than the extension of dominion is the extension of Republican institutions, which is a traditional aspiration. It was in this spirit that independence was achieved. In the name of human rights our fathers overthrew the kingly power, whose Representative was George III. They set themselves openly against this form of government. They were against it for themselves, and offered their example to mankind. They were Roman in character, and turned to Roman lessons. With a cynical austerity the early Cato said that Kings were "carnivorous animals," and at his instance the Roman Senate decreed that no King should be allowed within the gates of the city. A kindred sentiment, with less austerity of form, has been received from our fathers;

but our city can be nothing less than the North American Continent with its gates on all the surrounding seas.

John Adams, in the preface to his "Defence of the American Constitution," written in London, where he resided at the time as Minister, and dated the 1st January, 1787, at Grosvenor Square, the central seat of aristocratic fashion, after exposing the fabulous origin of the kingly power in contrast with the simple origin of our Republican Constitutions, thus for a moment lifts the curtain of the future: "Thirteen Governments," he says plainly, "thus founded on the natural authority of the
54 people alone, and without any pretence of miracle or mystery, and *which are destined to spread over the northern part of that whole quarter of the globe*, is a great point gained in favour of the rights of mankind." (John Adams' Works, vol. iv, p. 293). Thus, according to this prophetic Minister, even at that early day was the destiny of the Republic manifest. It was to spread over the northern part of the American quarter of the globe; and it was to be a support to the rights of mankind.

By the text of our Constitution the United States are bound to guarantee a "Republican form of government" to every State in this Union; but this obligation, which is only applicable at home, is an unquestionable indication of the national aspiration everywhere. The Republic is something more than a local policy; it is a general principle, not to be forgotten at any time, especially when the opportunity is presented of bringing an immense region within its influence. Elsewhere it has for the present failed; but on this account our example is more important. Who can forget the generous lament of Lord Byron, whose passion for freedom was not mitigated by his rank as an heriditary legislator of England, when he exclaims in memorable verse?—

> The name of commonwealth is past and gone
> O'er the three factions of the groaning globe!

Who can forget the salutation which the poet sends to the "one great clime," which, nursed in freedom, enjoys what he calls "the proud distinction" of not being confounded with other lands?—

> Whose sons must bow them at a Monarch's motion,
> As if his senseless sceptre were a wand!

The present Treaty is a visible step in the occupation of the whole North American Continent. As such it will be recognized by the world and accepted by the American people. But the Treaty involves something more. By it we dismiss one more Monarch from this Continent. One by one they have retired; first France; then Spain; then France again; and now Russia; all giving way to that absorbing Unity which is declared in the national motto "*E pluribus unum.*"

ANTICIPATION OF GREAT BRITAIN.

4. Another motive to this acquisition may be found in a desire to anticipate the imagined schemes or necessities of Great Britain. With regard to all these I confess my doubts, and yet, if we may credit report, it would seem as if there was already a British movement in this direction. Sometimes it is said that Great Britain desires to buy if Russia will sell. Sir George Simpson, Governor-in-chief of the Hudson Bay Company, declared that without the strip on the coast underlet to the former by the Russian Company the interior would be "comparatively useless to England." Here, then, is a provocation to buy. Sometimes

report assumes a graver character. A German scientific journal, in an elaborate paper, entitled, "The Russian Colonies on the North-west Coast of America," after referring to the constant "pressure" upon Russia, proceeds to say that there are already crowds of adventurers from British Columbia and California now at the gold mines on the Stikine, which flows from British territory through the Russian possessions, who openly declare their purpose of driving the Russians out of this region. I refer to the "Archiv für Wissenschaftliche Kunde von Russland," edited at Berlin as late as 1863, by A. Erman, vol. xxii, pp. 47–70, and unquestionably the leading authority on Russian questions. At the same time it presents a curious passage bearing directly on British policy from the "British Colonist," a newspaper of Victoria, on Vancouver's Island. As this was regarded of sufficient importance to be translated into German for the instruction of the readers of a scientific journal, I shall be justified in laying it before you restored from the German into English. It is as follows:

The information which we daily publish from the Stikine River very naturally excites public attention to a great extent. Whether the territory through which the river flows be considered in a political, commercial, or industrial light, there is a probability that in a short time there will be a still more general interest in the claim. Not only will the intervention of the Royal jurisdiction be demanded in order to give to it a complete form of government, but if the land proves to be as rich as there is now reason to believe it to be, it is not improbable that it will result in negotiations between England and Russia for the transfer of the sea-coast to the British Crown. It certainly is not acceptable that a stream like the Stikine, which for 170 to 190 miles is navigable for steamers, which waters a territory so rich in gold that it will allure thousands of men—certainly it is not desirable that the business of such a highway should reach the interior through a Russian door of 30 miles of coast. The English population which occupies the interior cannot be so easily managed by the Russians as the Stikine Indians of the coast manage the Indians of the interior. Our business must be in British hands. Our resources, our energies, our undertakings cannot be fully developed in building up a Russian emporium at the mouth of the Stikine. We must have for our productions a depôt over which the British flag waves. By the Treaty of 1825 the navigation of the river is secured to us. The navigation of the Mississippi was also open to the United States
55 before the Louisiana purchase, but the growing strength of the North made the attainment of that territory either by purchase or by might an evident necessity. We look upon the sea-coast of Stikine-land in the same light. The strip of land which stretches along from Portland Canal to Mount St. Elias, with a breadth of 30 miles, and which according to the Treaty of 1825 forms a part of Russian America, *must eventually become the property of Great Britain*, either as the direct result of the development of gold, or for reasons which are now yet in the beginning, but whose results are certain. For it is clearly undesirable that the strip 300 miles long and 30 miles wide, which is only used by the Russians for the collection of furs and walrus teeth, shall for ever control the entrance to our very extensive northern territory. It is a principle of England to acquire territory only as a point of defence. Canada, Nova Scotia, Malta, the Cape of Good Hope, and the great part of our Indian possessions were all acquired as defensive points. In Africa, India, and China the same rule is to-day followed by the Government. With a Power like Russia it would perhaps be more difficult to get ready, but if we need the sea-coast to help us in our business in the precious metals with the interior and for defence, then we must have it. The United States needed Florida and Louisana, and they took them. We need the shore of New Norfolk and New Cornwall.

It is just as much the destiny of our Anglo-Norman race to possess the whole of Russian America, however wild and inhospitable it may be, as it has been the destiny of the Russian Northmen to prevail over Northern Europe and Asia. As the Wandering Jew and his phantom in the tale of Eugène Sue, so will the Anglo Norman and the Russian yet look upon each other from the opposite side of Behring Straits. Between the two races the northern half of the Old and New World must be divided. America must be ours.

The present development of the precious metals in our hyperborean Eldorado will most probably hasten the annexation of the territory in question. It can hardly be doubted that the gold region of the Stikine extends away to the western source of the Mackenzie. In this case the increase of the business and of the population will exceed our most sanguine expectations. Who shall reap the profit of this? The

mouths of rivers have as well before as since the time of railroads controlled the business of the interior. For our national pride the thought, however, is unbearable that the Russian Eagle should possess a point which owes its importance to the British Lion. The mouth of the Stikine must be ours, or at least an outer harbour must be established on British soil from which our steamers can pass the Russian girdle. Fort Simpson, Dundas Land, Portland Canal, or some other convenient point, most be selected for this purpose. The necessity of speedy action in order to secure the control of the Stikine is apparent. If we let slip the opportunity, so shall we permit a Russian State to arrive at the door of a British Colony.

Thus, if we may credit this colonial ejaculation, caught up and preserved by German science, the Russian possessions were destined to round and complete the domain of Great Britain on this continent. The Russian "Eagle" will give way to the British "Lion." The Anglo-Norman was to be master as far as Behring Straits, across which he might survey his Russian neighbour. How this was to be accomplished is not precisely explained. The promises of gold on the Stikine failed, and it is not improbable that this colonial plan was as unsubstantial. Colonists become excited easily. This is not the first time in which Russian America has been menaced in a similar way. During the Crimean war there seemed to be in Canada a spirit not unlike that of the Vancouver journalist, unless we are misled by the able pamphlet of Mr. A. K. Roche, of Quebec, where, after describing Russian America as "richer in resources and capabilities than it has hitherto been allowed to be either by the English who shamefully gave it up, or by the Russians who cunningly obtained it," the author urges an expedition for its conquest and annexation. His proposition fell on the happy termination of the war, but it exists as a warning, with a notice also of a former English title "shamefully" abandoned.

This region is distant enough from Great Britain; but there is an incident of past history which shows that distance from the Metropolitan Government has not excluded the idea of war. Great Britain could hardly be more jealous of Russia on these coasts than was Spain in a former day, if we may credit the Report of Humboldt. I quote again his authoritative work, "Essai Politique sur la Nouvelle-Espagne" (Tom. 1 p. 345), where it is recorded that as early as 1788, even while peace was still unbroken, the Spaniards could not bear the idea of Russians in this region, and when in 1790 the Emperor Paul declared war on Spain the hardy project was formed of an expedition from the Mexican ports of Monterey and San Blas against the Russian Colonies, on which the philosophic traveller remarks, in words which are recalled by the Vancouver manifesto, that "if this project had been executed the world would have witnessed two nations in conflict, which, occupying the opposite extremities of Europe, found themselves neighbours in another hemisphere on the eastern and western boundaries of their vast Empires." Thus, notwithstanding an intervening circuit of half the globe, two Great Powers were about to encounter each other on these coasts. But I hesitate to believe that the British of our day in any considerable numbers have adopted the early Spanish disquietude at the presence of Russia on this continent.

THE AMITY OF RUSSIA.

5. There is still another consideration concerning this Treaty which must not be disregarded. It attests and assures the amity of Rus-
56 sia. Even if you doubt the value of these possessions, the Treaty is a sign of friendship. It is a new expression of that *entente cordiale* between the two Powers which is a phenomenon of history. Though unlike in institutions, they are not unlike in recent experience.

sharers of a common glory in a great act of emancipation, they also share together the opposition or antipathy of other nations. Perhaps this experience has not been without its effect in bringing them together. At all events, no coldness or unkindness has interfered at any time with their good relations.

The archives of the State Department show an uninterrupted cordiality between the two Governments dating far back in our history. More than once Russia has offered her good offices between the United States and Great Britain; once also she was a recognized arbitrator. She offered her mediation to prevent war in 1812, and again by her mediation in 1815 brought about peace. Afterwards it was under her arbitration that questions with Great Britain arising under the Treaty of Ghent were amicably settled in 1822. But it was during our recent troubles that we felt more than ever her friendly sentiments, although it is not improbable that the accident of position and of distance had its influence in preserving these undisturbed. The Rebellion, which tempted so many other Powers into its embrace, could not draw Russia from her habitual good-will. Her solicitude for the Union was early declared. She made no unjustifiable concession of *ocean belligerency*, with all its immunities and powers, to rebels in arms against the Union. She furnished no hospitality to rebel cruizers; nor was any rebel agent ever received, entertained, or encouraged at St. Petersburgh; while, on the other hand, there was an understanding that the United States should be at liberty to carry prizes into Russian ports. So natural and easy were the relations between the two Governments that such complaints as incidentally arose on either side were amicably adjusted by verbal explanations without any written controversy.

Positive acts occurred to strengthen these relations. As early as 1861 the two Governments came to an agreement to act together for the establishment of a connection between San Francisco and St. Petersburgh by an interoceanic telegraph across Behring Straits; and this agreement was subsequently sanctioned by Congress. Meanwhile occurred the visit of the Russian fleet in the winter of 1863, which was intended by the Emperor and accepted by the United States as a friendly demonstration. This was followed by a communication of the Secretary of State, dated 26th December, 1864, in the name of the President, inviting the Archduke Constantine to visit the United States, in which it was suggested that such a visit would be "beneficial to us and by no means unprofitable to Russia," but forbearing "to specify reasons," and assuring him that coming as a national guest he would receive a cordial and most demonstrative welcome. Affairs in Russia prevented the acceptance of this invitation. Afterwards, in the spring of 1866, Congress by solemn resolution declared the sympathies of the people of the United States with the Emperor on his escape from the madness of an assassin, and Mr. Fox, at the time Assistant Secretary of the Navy, was appointed to take the Resolution of Congress to the Emperor, and, in discharge of this trust, to declare the friendly sentiments of our country to Russia. He was conveyed to Cronstadt in the monitor "Miantonoh," the most formidable ship of our navy; and thus this agent of war became a messenger of peace. The monitor and the Minister were received in Russia with unbounded hospitality.

In relations such as I have described the cession of territory seems a natural transaction entirely in harmony with the past. It remains to hope that it may be a new link in an amity which, without effort, has overcome differences of institutions and intervening space on the globe.

SHALL THE TREATY BE RATIFIED?

Such are some of the obvious considerations of a general character bearing on the Treaty. The interests of the Pacific States; the extension of the national domain; the extension of Republican institutions; the foreclosure of adverse British possessions and the amity of Russia; these are the points which we have passed in review. Most of these, if not all, are calculated to impress the public mind; but I can readily understand a difference of opinion with regard to the urgency of negotiation at this hour. Some may think that the purchase-money and the annual outlay which must follow might have been postponed for another decade, while Russia continued in possession as a trustee for our benefit. And yet some of the reasons for the Treaty do not seem to allow delay.

At all events, now that the Treaty has been signed by Plenipotentiaries on each side duly empowered, it is difficult to see how we can refuse to complete the purchase without putting to hazard the friendly relations which happily subsist between the United States and Russia. The overtures originally proceeded from us. After a delay of years, and other intervening propositions, the bargain was at length concluded. It is with nations as with individuals. A bargain once made must be kept. Even if still open to consideration it must not be lightly abandoned. I am satisfied that the dishonour of this Treaty, after what has passed, would be a serious responsibility for our country. As an international question, it would be tried by the public opinion of the world, and there are many who, not appreciating the requirement of our Constitution by which a Treaty must have "the advice and consent of the Senate," would regard its rejection as bad faith. There would be jeers at us and jeers at Russia also; at us for levity in making overtures, and at Russia for levity in yielding to them. Had the Senate been consulted in advance, before the Treaty was signed or either Power
57 publicly committed, as is often done on important occasions, it would now be under less constraint. On such a consultation there would have been an opportunity for all possible objections, and a large latitude to a reasonable discretion. Let me add that, while forbearing objection now, I hope that this Treaty may not be drawn into a precedent at least in the independent manner of its negotiation. I would save to the Senate an important power that justly belongs to it.

A CAVEAT.

But there is one other point on which I file my *caveat*. This Treaty must not be a precedent for a system of indiscriminate and costly annexation. Sincerely believing that Republican institutions under the primacy of the United States must embrace this whole continent, I cannot adopt the sentiment of Jefferson, who, while confessing satisfaction in settlements on the Pacific coast, saw there in the future nothing but "free and independent Americans," bound to the United States only by "ties of blood and interest" without political unity. Nor am I willing to restrain myself to the principle so tersely expressed by Andrew Jackson in his letter to President Monroe, "Concentrate our population, confine our frontier to proper limits, until our country, to those limits, is filled with a dense population." But I cannot disguise my anxiety that every stage in our predestined future shall be by natural processes without war, and I would add even without purchase. There is no territorial aggrandizement which is worth the price of blood. *Only* under peculiar circumstances can it become the subject of pecu-

niary contract. Our triumph should be by growth and organic expansion in obedience to "pre-established harmony," recognizing always the will of those who are to become our fellow-citizens. All this must be easy if we are only true to ourselves. Our motto may be that of Goethe, "Without haste, without rest." Let the Republic be assured in tranquil liberty with all equal before the law, and it will conquer by its sublime example. More happy than Austria, who acquired possessions by marriage, we shall acquire them by the attraction of Republican institutions;

> Bella gerant alii; tu, felix Austria, nube;
> Nam quæ Mars aliis, dat tibi regna Venus.

The famous epigram will be just as applicable to us, inasmuch as our acquisitions will be under the sanction of wedlock to the Republic. There may be wedlock of a people as well as of a Prince. Meanwhile, our first care should be to improve and elevate the Republic, whose sway will be so comprehensive. Plant it with schools; cover it with churches; fill it with libraries; make it abundant with comfort so that poverty shall disappear; keep it constant in the assertion of Human Rights. And here we may fitly recall those words of antiquity, which Cicero quoted from the Greek, and which Webster in our day quoted from Cicero, "You have a Sparta; adorn it."

SOURCES OF INFORMATION UPON RUSSIAN AMERICA.

I am now brought to consider the character of these possessions and their probable value. Here I am obliged to confess a dearth of authentic information easily accessible. There are few among us who read Russian, so that works in this language are locked up from the world. One of these, in two large and showy volumes, is now before me, entitled "A Historical Survey of the Formation of the Russian-American Company, and its Progress to the Present Time," by P. Teshmenew, St. Petersburgh. The first volume appeared in 1860, and the second in 1863. Here, among other things, is a tempting engraving of Sitka, wrapped in mists, with the sea before and the snow capped mountains darkened with forest behind. Judging from the table of contents, which has been translated for me by a Russian, the book ought to be instructive. There is also another Russian work of an official character, which appeared in 1861 at St. Petersburgh in the "Morskoi Sbornich," or "Naval Review," and is entitled, "Materials for the History of the Russian Colonies on the Coasts of the Pacific." The Report of Captain-Lieutenant Golowin made to the Grand Duke Constantine in 1861, with which we have become acquainted through a scientific German journal, appeared originally in the same review. These are recent productions. After the early voyages of Behring, first ordered by Peter the Great and supervised by the Imperial Academy at St. Petersburgh, the spirit of geographical research seems to have subsided at St. Petersburgh. Other enterprises absorbed the attention. And yet I would not do injustice to the voyages of Billings, recounted by Sauer, or of Lisiansky, Krusenstern, and Langsdorf, or of Kotzebue, all under the auspices of Russia, the last of which may compare with any as a contribution to science. I may add Lütke also; but Kotzebue was a worthy successor to Behring and Cook.

Beside these official contributions, most of which are by no means fresh, there are materials derived from casual navigators, who, scudding these seas, rested in the harbours there as the water-fowl on its flight; from whalemen, who were there merely as Nimrods of the ocean; or

from adventurers in quest of the rich furs which it furnished. There are also the gazetteers and geographies, but they are less instructive on this head than usual, being founded on information now many years old.

Perhaps no region of equal extent on the globe, unless we except
58 the interior of Africa or possibly Greenland, is as little known.

Here I do not speak for myself alone. A learned German, whom I have already quoted, after saying that the explorations have been limited to the coast, testifies that "the interior, not only of the continent, but even of the Island of Sitka, is to-day unexplored, and is in every respect *terra incognita*." The same has been repeated of the islands also. Admiral Lütke, whose circumnavigation of the globe began in 1825, and whose work bears date in 1835, says of the Aleutian Archipelago that, "although frequented for more than a century by Russian vessels and those of other nations, it is to-day almost as little known as in the time of Cook." Another writer of authority, the compiler of the official work on the "People of Russia," published as late as 1862, speaks of the interior as "a mystery." And yet another says that our ignorance with regard to this region would make it a proper scene for a chapter of "Gulliver's Travels."

Where so little was known there was scope for invention. Imagination was made to supply the place of knowledge, and poetry pictured the savage desolation in much-admired verse. Campbell, in the "Pleasures of Hope," while exploring "earth's loneliest bounds and ocean's wildest shore," reaches this region, which he portrays:

> Lo! to the wintry winds the pilot yields,
> His bark careering o'er unfathomed fields.
> Now far he sweeps, where scarce a summer smiles,
> On Behring's rocks, or Greenland's naked isles;
> Cold on his midnight watch the breezes blow,
> From wastes that slumber in eternal snow,
> And waft across the wave's tumultuous roar
> *The wolf's long howl from Ounalaska's shore.*

All of which, so far, at least, as it describes this region, is inconsistent with the truth. The poet ignores the isothermal line, which plays such a conspicuous part on the Pacific coast. Here the evidence is positive. Portlock, the navigator, who was there toward the close of the last century, after describing Cook's Inlet, which is several degrees north of Ounalaska, records his belief "that the climate here is not so severe as has been generally supposed; for in the course of traffic with the natives they frequently brought berries of several sorts, and in particular black berries equally fine with those met with in England." ("Voyage," p. 118.) Kotzebue, who was here later, records that he found the weather "pretty warm at Ounalaska." ("Voyage," vol. i, p. 275.) South of the Aleutians the climate is warmer still. The poet ignores natural history also as regards the distribution of animals. Curiously enough, it does not appear that there are "wolves" on any of the Aleutians. Coxe, in his work on Russian discoveries (p. 174), records that "reindeer, bears, *wolves*, and ice-foxes are not to be found on these islands." But he was never there. Meares, who was in those seas, says "the *only animals* on these islands are foxes, some of which are black." ("Voyage," vol. i, p. 16.) Cook, who was at Ounalaska twice, and once made a prolonged stay, expressly says, "foxes and weasels were the *only quadrupeds* that we saw; they told us that they had hares also." ("Voyage," vol. ii, p. 518.) But quadrupeds like these hardly sustain the exciting picture. The same experienced navi*gator furnishes* a glimpse of the inhabitants as they appeared to him,

which would make us tremble if the "wolves" of the poet were numerous. He says that "to all appearance they are the most peaceable, inoffensive people he ever met with;" and Cook had been at Otaheite. "No such thing as an offensive or defensive weapon was seen amongst the natives of Ounalaska." (*Ibid.*, pp. 509, 515.) Then, at least, the inhabitants did not share the ferocity of the "wolves" and of the climate. Another navigator fascinates us by a description of the boats of Ounalaska, which struck him "with amazement beyond expression;" and he goes on to say, "if perfect symmetry, smoothness, and proportion constitute beauty, they are beautiful beyond anything that I ever beheld. I have seen some of them as transparent as oiled paper." ("Billing's Voyages," p. 15.) But these are the very boats that buffet "the wave's tumultuous roar," while "the breezes" waft the "wolf's long howl." This same navigator introduces another feature. According to him the Russians sojourning there "seem to have no desire to leave this place, where they enjoy that indolence so pleasing to their minds." (Page 161.) The lotus-eaters of Homer were no better off. The picture is completed by another touch from Liitke. Admitting the want of trees on the island, the Admiral suggests that their place is supplied not only by luxuriant grass, but by wood thrown upon the coast, including trunks of camphor from Chinese and Japanese waters, and "a tree which gives forth the odour of the rose." ("Voyage," Tom. 1, p. 132.) Such is a small portion of the testimony, most of which was in print before the poet wrote.

Nothing has been written about this region, whether the coast or the islands, more authentic or interesting than the narrative of Captain Cook on his third and last voyage. He saw with intelligence, and described with clearness almost elegant. The record of Captain Portlock's voyage from London to the north-west coast in 1786, 1787, and 1788 seems to be honest and is instructive. Captain Meares, whose voyage was contemporaneous, saw and exposed the importance of trade between the north-west coast and China. Vancouver, who came a little later, has described some parts of this coast. La Pérouse, the unfortunate French navigator, has afforded another picture of the coast painted with French colors. Before him was La Maurelle, a Frenchman sailing in the service of Spain, who was on the coast in 1779, a portion of whose journal is preserved in the Appendix to the volumes of La
59 Pérouse. After him was Marchand, also a Frenchman, who, during a voyage round the world, stopped here in 1791. The voyage of the latter, published in three quartos, is accompanied by an "Historical Introduction," which is a mine of information on all the voyages to this coast. Then came the several successive Russian voyages already mentioned. Later came the "Voyage round the World" by Captain Belcher, with a familiar sketch of life at Sitka, where he stopped in 1837, and an engraving representing the arsenal and light-house there. Then came the "Journey round the World" in 1841 and 1842 by Sir George Simpson, Governor-in-chief of the Hudson Bay Company, containing an account of a visit to Sitka and the hospitality of its Governor. To these I may add "The Nautical Magazine" for 1849, vol. xviii, which contains a few excellent pages about Sitka; the "Journal of the London Geographical Society" for 1841, vol. xi, and for 1852, vol. xii, where this region is treated under the head of Arctic languages and animal life; Burney's "Russian and North-eastern Voyages;" the magnificent work entitled "Les Peuples de la Russie," which appeared at St. Petersburgh in 1862, on the Tenth Centennial Anniversary of the foundation of the Russian Empire, a copy of which is in

the Astor Library; the very recent work of Murray on the "Geographical Distribution of Mammals;" the work of Sir John Richardson, "Fauna Boreali-Americana;" "Latham on Nationalities" in the chapters of which treat of the population of Russian America; the "Encyclopædia Britannica;" and the admirable "Atlas of Physical Geography" by Keith Johnston. I mention also an elaborate article by Holmberg, in the Transactions of the Finland Society of Sciences at Helsingfors, said to be replete with information on the ethnography of the north-west coast.

Perhaps the most precise and valuable information has been contributed by Germany. The Germans are the best geographers; besides many Russian contributions are in German. Müller, who recorded the discoveries of Behring, was a German. Nothing more important on this subject has ever appeared than the German work of the Russian Admiral von Wrangel, "Statistische und Ethnographische Nachrichten über die Russischen Besitzungen an der Nordwestküste von America," first published by Baer in his Russian "Beiträge" in 1839. There is also the "Verhandlungen der Russisch-Kaiserlichen Mineralogischen Gesellschaft zu St. Petersburg," 1848 and 1849, which contains an elaborate article, in itself a volume, on the orography and geology of the north-west coast and the adjoining islands, at the end of which is a bibliographical list of the works and materials illustrating the discovery and history of the west half of North America and the neighbouring seas. I may also refer generally to the "Archiv für Wissenschaftliche Kunde von Russland," edited by Erman, but especially the volume for 1863, containing the abstract of Golowin's Report on the Russian Colonies in North America as it appeared originally in the "Morskoi Sbornich." Besides these there are Wappäus' "Handbuch von Geographie und Statistik von Nord Amerika," published at Leipsic in 1855; Peterman in his "Mittheilungen über wichtige neue Erforschungen auf dem gesammtgebiete der Geographie" for 1856, vol. ii, p. 486; for 1859, vol. v, p. 41; and for 1863, vol. ix, pp. 70, 236, 277, 278; Kittlitz "Denkwürdigkeiten einer Reise nach dem Russischen America durch Kamtschatka," published at Gotha in 1858; also by the same author, "The Vegetation of the Coasts and Islands of the Pacific," translated from the German and published at London in 1861.

Much recent information has been derived from the great Companies possessing the monopoly of trade here. Latterly there has been an unexpected purveyor in the Russian-American Telegraph Company, under the direction of Colonel Charles L. Bulkley, and here our own countrymen come to help us. To this expedition we are indebted for authentic evidence with regard to the character of the country and the great rivers which traverse it. The Smithsonian Institution and the Chicago Academy of Sciences co-operated with the Telegraph Company in the investigation of the natural history of the region. Major Kennicott, a young naturalist, originally in the service of the Institution, and Director of the Museum of the Chicago Academy, was the enterprising chief of the Youkon division of the expedition. While in the midst of his valuable labours he died suddenly in the month of May last at Nulato, on the banks of the great river, the Kwichpak, which may be called the Mississippi of the north, far away in the interior and on the confines of the Arctic Circle, where the sun was visible all night. Even after death he was still an explorer. From this remote outpost his remains, after descending the unknown river in an Esquimaux boat of seal-skins, steered by the faithful companion of his labours, were transported by way of Panamá to his home at Chicago, where he now lies buried. Such *an incident* cannot be forgotten, and his name will always remind us of

courageous enterprise, before which distance and difficulty disappeared. He was not a beginner when he entered into the service of the Telegraph Company. Already he had visited the Youkon country by the way of the Mackenzie River, and contributed to the Smithsonian Institution important information with regard to its geography and natural history, some of which will be found in their Reports. Nature in novel forms was open to him. The birds here maintained their kingdom. All about him was the mysterious breeding place of the canvas-back duck, whose eggs, never before seen by a naturalist, covered acres.

If we look to maps for information, here again we find ourselves disappointed. Latterly the coast is outlined and described with reasonable completeness; so also are the islands. This is the contribution of navigators and of recent Russian charts. But the interior is little more than a blank, calling to mind "the pathless downs," where, according to Prior, the old geographers "place elephants instead of towns." I have already referred to what purports to be a "General Map of
60 the Russian Empire," published by the Academy of Sciences at St. Petersburgh in 1776, and republished at London in 1787, where Russian America does not appear. I might mention also that Captain Cook complained in his day of the Russian maps as "wonderfully erroneous." On his return English maps recorded his explorations and the names he assigned to different parts of the coast. These were reproduced in St. Petersburgh, and the Russian copy was then reproduced in London, so that geographical knowledge was very little advanced. Some of the best maps of this region are by Germans, who always excel in maps. Here, for instance, is an excellent Map of the Aleutian Islands and the neighbouring coasts, especially to illustrate their orography and geography, which will be found at the end of the volume of "Transactions of the Imperial Mineralogical Society" at St. Petersburgh, to which I have already referred.

Late maps attest the tardiness of information. Here, for instance, is an excellent Map of North America, purporting to be published by the Geographical Institute of Weimar as late as 1859, on which we have the Youkon pictured, very much like the Niger, in Africa, as a large river meandering in the interior without any outlet to the sea. Here, also, is a Russian map of this very region, as late as 1861, in which the course of the Youkon is left in doubt. On other maps, as in the Atlas of Keith Johnston, it is pictured under another name as entering into the Frozen Ocean. But the secret is penetrated at last. Recent discovery by the enterprise of our citizens in the service of the Telegraph Company fixes that this river is an affluent of the Kwichpak, as the Missouri is an affluent of the Mississippi, and enters into Behring Sea, by many mouths, between the parallels of 64° and 65°. After the death of Major Kennicott a division of his party, with nothing but a skin boat, ascended the river to Fort Youkon, where it bifurcates, and descended it again to Nulato, thus establishing the entire course from its sources in the Rocky Mountains for a distance exceeding 1,000 miles. I have before me now an outline map just prepared by our Coast Survey, where this correction is made. But this is only the harbinger of the maturer labours of our accomplished Bureau when the coasts of this region are under the jurisdiction of the United States.

In closing this abstract of authorities, being the chief sources of original information on this subject, I cannot forbear expressing my satisfaction that, with the exception of a single work, all these may be found in the Congressional Library, now so happily enriched by the rare collection of the Smithsonian Institution. Sometimes individuals are like

libraries; and this seems to be illustrated in the case of Professor Baird, of the Smithsonian Institution, who is thoroughly informed on all questions connected with the natural history of Russian America, and also of George Gibbs, Esq., now of Washington, who is the depositary of valuable knowledge, the result of his own personal studies and observations, with regard to the native races.

CHARACTER AND VALUE OF RUSSIAN AMERICA.

I pass now to a consideration of the character and value of these possessions, as seen under these different heads: (1) government; (2) population; (3) climate; (4) vegetable products; (5) mineral products; (6) furs; and (7) fisheries. Of these I shall speak briefly in their order. There are certain words of a general character, which I introduce by way of preface. I quote from Blodgett on the "Climatology of the United States and of the Temperate Latitudes of the North American Continent":

> It is most surprising that so little is known of the great islands and the long line of coast from Puget's Sound to Sitka, ample as its resources must be even for recruiting the transient commerce of the Pacific, independent of its immense intrinsic value. To the region bordering the Northern Pacific the finest maritime positions belong throughout its entire extent; and no part of the west of Europe exceeds it in the advantages of equable climate, fertile soil, and commercial accessibility of the coast. The western slope of the Rocky Mountain system may be included as a part of this maritime region, embracing an immense area from the 45th to the 60th parallel, and 5 degrees of longitude in width. The cultivable surface of this district cannot be much less than 300,000 square miles.

From this sketch, which is in the nature of a picture, I pass to the different heads.

GOVERNMENT.

I. The Russian Settlements were for a long time without any regular *Government*. They were little more than temporary lodgments for purposes of trade, where the will of the stronger prevailed. The natives, who had enslaved each other, became in turn the slaves of these mercenary adventurers. Captain Cook records "the great subjection" of the natives at Ounalaska when he was there in 1778, and a Russian navigator, twenty years later, describes the islands generally as "under the sway of roving hunters more savage than any tribes he had hitherto met with." ("Billings' Voyage," p. 274.) At Ounalaska the Russians for a long time employed all the men in the chase, "taking the fruits of their labour to themselves."

The first trace of government which I find was in 1790, at the important Island of Kodiak, or the Great Island, as it was
61 called, where a Russian Company was established, under the direction of a Greek by the name of Delareff, who, according to the partial report of a Russian navigator, "governed with the strictest justice, as well natives as Russians, and established a school, where the young natives were taught the Russian language, reading, and writing." ("Billings," p. 171.) Here were about fifty Russians, including officers of the Company, and another person described as there "on the part of Government to collect tribute." The establishment consisted of five houses after the Russian fashion; barracks laid out on either side somewhat like the boxes at a coffee-house, with different offices, which are represented as follows: "An office of appeal to settle disputes, levy fines, and punish offenders by a regular trial; here Delareff presides; and I believe that few Courts of Justice pass a sentence with more impartiality; an office of receival and delivery, both

for the Company and for tribute; the Commissary's department; counting-house; all in this building, at one end of which is Delareff's habitation." (*Ibid.*, p. 173.) If this picture is not overdrawn, and it surely is, affairs here did not improve with time.

It seems that there were various small Companies, of which that at Kodiak was the most considerable, all of which were finally fused into one large trading Company, known as the Russian-American Company, which was organized in 1799, under a Charter from the Emperor Paul, with the power of administration throughout the whole region, including the coasts and the islands. In this respect it was not unlike the East India Company, which has played such a part in English history; but it may be more properly compared to the Hudson Bay Company, of which it was a Russian counterpart. The Charter was for a term of years, but it has been from time to time extended, and, as I understand, is now on the point of expiring. The powers of the Company are sententiously described by the "Almanach de Gotha" for 1867, where, under the head of Russia, it says that "to the present time Russian America has been the *property of a Company.*"

I know no limitation upon the Company, except that latterly it has been bound to appoint its chief functionary, called "Administrator-General," from the higher officers of the Imperial Navy, when he becomes invested with what are declared the prerogatives of a Governor in Siberia. This requirement has doubtless secured the superior order of Magistrates which the country has latterly enjoyed. Among these have been Baron Wrangel, an Admiral, who was there at the time of the Treaty with Great Britain in 1825; Captain Koupreanoff, who had commanded the "Azof," a ship of the line, in the Black Sea, and spoke English well; Captain Etholine; Admiral Fujurelm, who, after being there five years, was made Governor of the Province of the Amoor; Admiral Wodski; and Prince Macksoutoff, an Admiral also, who is the present Administrator-General. The term of service is ordinarily five years.

The seat of Government is the town of New Archangel, better known by its aboriginal name of Sitka, with a harbour as smooth and safe as a pond. Its present population cannot be far from 1,000 souls, although even this is changeable. In the spring, when sailors leave for the sea and trappers for the chase, it has been reduced to as few as 180. It was not without a question that Sitka at last prevailed as the metropolis. Lütke sets forth reasons elaborately urged in favour of St. Paul, on the Island of Kodiak. ("Voyage," Tom. 1, p. 153.)

The first Settlement there was in 1800 by Baranow, the Superintendent of the Company, whose life was passed in this country, and whose name has been given to the island. But the Settlement made slow progress. Lisiansky, who was there in 1804, records that "from his entrance into Sitka Sound there was not to be seen on the shore the least vestige of habitation" (p. 145.) The natives had set themselves against a Settlement there. Meanwhile, the seat of Government was at Kodiak, of which we have an early and friendly glimpse. I quote what Lisiansky says, as exhibiting in a favourable light the beginning of that Government which has been transferred to the United States:

> The Island of Kodiak, with the rest of the Russian Settlements along the north-west coast of America, are superintended by a kind of Governor-General or Commander-in-chief, who has agents under him, appointed, like himself, by the Company at Petersburgh. The smaller Settlements have each a Russian overseer. These overseers are chosen by the Governor, and are selected for the office in consequence of their long services *and orderly conduct*. They have the power of punishing, to a *certain extent, those whom they superintend*; but are themselves amenable to the

Governor if they abuse their power by acts of injustice. The seat of Government is on the harbour of St. Paul, which has a barrack, different store-houses, several respectable wooden habitations, and a church, the only one to be found on the coast. (*Ibid.*, p. 214.)

From this time the Company seems to have established itself on the coast. Lisiansky speaks of "a single hunting party of 900 men, gathered from different places, as Alaska, Kodiak, Kenay, Cook's Inlet, and commanded by thirty-six 'toyons,' who are subordinate to the Russians in the service of the American Company, and receive from them their orders." (*Ibid.*, p. 153.) From another source I learn that the inhabitants of Kodiak and of the Aleutian Islands were regarded as "immediate subjects of the Company," the males from 18 to 50 being bound to serve it for a term of three years each. They were employed in the chase. The population of Alaska and of the two great bays, Cook's Inlet and Prince William Sound, were also subject to the Company; but they were held to a yearly tax in furs without any regular service, and they could trade only with the Company; otherwise they were independent. This seems to have been
62 before the division of the whole into districts, all under the Company, which, though primarily for the business of the Company, may be regarded as so many distinct jurisdictions, each with local powers of government.

Among these were two districts which I mention only to put aside, as not included in the present cession: (1) The Kurile Islands, being the group nestling near the coast of Japan, on the Asiatic side of the dividing line between the two continents. (2) The Ross Settlement in California, now abandoned.

There remain five other districts: (1) The District of Atcha, with the Bureau at this island, embracing the two western groups of the Aleutians known as the Andreanowsky Islands and the Rat Islands, and also the group about Behring's Island, which is not embraced in the present cession. (2) The District of Ounalaska, with the Bureau at this island, embracing the Fox Islands, the Peninsula of Alaska to the meridian of the Shumagin Islands, including these and also the Prybilov Islands to the north of the Peninsula. (3) The District of Kodiak, embracing the Peninsula of Alaska east of the meridian of the Shumagin Islands, and the coast westward to Mount St. Elias, with the adjacent islands, including Kodiak, Cook's Inlet, and Prince William Sound, then northward along the coast of Bristol Bay, and the country watered by the Nushagak and Kuskokwim Rivers, all of which is governed from Kodiak, with redoubts or palisaded stations at Nushagak, Cook's Inlet, and Prince William Sound. (4) The Northern District, embracing the country of the Kwichpak and of Norton's Sound, under the direction of the commander of the redoubt at St. Michael's; leaving the country northward, with the Islands St. Lawrence and St. Mathews, not embraced in this district, but visited direct from Sitka. (5) The District of Sitka, embracing the coast from Mount St. Elias, where the Kodiak district ends, southward to the latitude of 54° 40′, with the adjacent islands. But this district has been curtailed by a lease of the Russian-American Company in 1839, for the space of ten years, and subsequently renewed, in which this Company, in consideration of the annual payment of 2,000 otter-skins of Columbia River, underlets to the Hudson Bay Company all its franchise for the strip of continent between Cape Spencer at the north and the latitude of 54° 40′, excluding the adjacent islands.

The Central Government of all these districts is at Sitka, from which *emanates* all orders and instructions. Here also is the chief factory,

rom which supplies are forwarded to different places, and where the proceeds of the trade are collected.

The operations of the Government may be seen in its receipts and expenditures, including its salaries and allowances. In the absence of a complete series of such statistics to the present time, I mass together what I have been able to glean in different fields, relating to particular years, knowing well its unsatisfactory character. But each item has its instruction for us.

The capital of the Company in buildings, wares, and vessels in 1833 was said to be 3,658,577 roubles. In 1838 the Company possessed 12 vessels, amounting together to 1,556 tons, most of which were built at Sitka. According to Wappäus, who follows Wrangel, the salaries of the officers and workmen of the Company in 1832 amounted to 442,877 roubles. At that time the persons in its service numbered 1,025, of whom 556 were Russians, 152 Creoles, and 317 Aleutians. In 1851 there were in the service of the Company 1 Staff officer, 3 officers of the Imperial Navy, 1 officer of engineers, 4 civil officers, 30 religious officers, and 686 servants. The expenses of the Company from 1826 to 1833, a period of 7 years, were 6,608,077 roubles. These become interesting to us when it is considered that, besides what was paid on account of furs, and the support of the persons in the service of the Company, there were other items incident to government, such as shipbuilding, navigation, fortifications, hospitals, schools, and churches. From a later authority it appears that the receipts of the Company, reported at St. Petersburgh for the year ended 1855, was 832,749 roubles, against expenses, 683,892 roubles, incurred for "administration in Russia and the Colonies," insurance, transportation, and duties. The relative proportion of these different expenses does not appear. I have another Report for 1857, where the revenue was 832,749 roubles, with expenditures of 683,892 roubles, leaving the difference for dividends, which were fixed at 18 roubles a share.

These are explained by other statistics, which I am able to give from the report of Golowin, who furnishes the receipts and expenditures of the Company from 1850 to 1859 inclusive. The silver rouble, which is the money employed in the Table, is taken at our Mint for 75 cents.

RECEIPTS FROM 1850 TO 1859, INCLUSIVE.

	Silver roubles.
Tea traffic	4,145,869.79
Sale of furs	1,709,149.00
Commercial licences	2,403,296.61
Other traffics	170,235.76
Total	8,528,551.13

3 EXPENDITURES FROM 1850 TO 1859, INCLUSIVE.

	Silver roubles.
Sustenance of the Colony	2,288,207.20
Colonies' churches	71,723.18
Benevolent institutions	143,366.23
Principal administrative officers	1,536,436.49
Tea duty	1,764,559.85
Transportation and packing of tea	586,901.72
Purchase and transportation of merchandize	213,696.29
Insurance of tea and merchandize	217,026.55
Loss during war and by shipwreck	132,820.20
Reconstruction of the Company's house in St. Petersburgh	76,976.00
Capital for the use of the poor	6,773.02
Revenue fund capital	135,460.40
Dividends	1,354,604.00
Total	8,528,551.13

Analyzing this table we shall arrive at a clearer insight into the affairs of the Company. If its receipts have been considerable they have been subject to serious deductions. From the expenditures we may also learn something of the obligations which we are about to assume.

From another table I learn that during this same period 122,006 roubles were received for ice, mostly sent to California, 26,399 roubles for timber, and 6,250 roubles for coal. I think it not improbable that these items are included in the list of "receipts" under the term "other traffics."

In Russia the churches belong to the Government, and this rule prevails in these districts, where there are four Greek churches and five Greek chapels. There is also a Protestant church at Sitka. I am glad to add that at the latter place there is a public library, which some years ago contained 1,700 volumes, together with journals, maps, atlases, and mathematical instruments. In Atcha, Ounalaska, Kodiak, and Sitka schools are said to have been maintained at the expense of the Company, though not on a very comprehensive scale, for Admiral Wrangel mentions only ninety boys as enjoying these advantages in 1839. In Ounalaska and Kodiak there were at the same time orphan asylums for girls, where there were in all about thirty. But the Admiral adds that "these useful institutions will, without doubt, be improved to the utmost." Besides these, which are confined to particular localities, there is said to be a hospital near every factory in all the districts.

I have no means of knowing if these territorial subdivisions have undergone any recent modifications. They will be found in the "Russichen Besitzungen" of Wrangel, published in 1839, in the "Geographie" of Wappäus in 1856, and in the "Archiv von Russland" of 1863, containing the article on the Report of Golowin. I am thus particular with regard to them from a double motive. Besides helping to an understanding of the existing government, they may afford suggestions of practical importance in any future organization.

The Company has not been without criticism. Some of the pictures of it are by no means rose-colour. These, too, may furnish instruction for the future. Early in the century its administration was the occasion of open and repeated complaint. It was pronounced harsh and despotic. Langsdorf is indignant that "a free-trading Company should exist independent of the Government, not confined within any definite regulations, but who can exercise their authority free and uncontrolled, nay, even unpunished, over so vast an extent of country." In stating the case he adds that "the Russian subject here enjoys no protection of his property, lives in no security, and if oppressed has no one to whom he can apply for justice. The agents of the factories and their subordinates, influenced by humour or interest, decide everything arbitrarily." ("Voyages," vol. ii, p. 70.) And this arbitrary power seemed to prevail wherever a factory was established; "the stewardship in each single establishment is entirely despotic; though normally depending upon the principal factory these stewards do just what they please, without the possibility of being called to account." (*Ibid.*, vol. ii, p. 69.) If such was the condition of Russians, what must have been that of the natives? Here the witness answers: "I have seen the Russian fur-hunters dispose of the lives of the natives solely according to their own arbitrary will, and put these defenceless creatures to death in the most horrible manner." (Page 70.) Krusenstern concurs in this testimony, and, if possible, darkens the colours. According to him, "every one

must obey the iron rule of the agent of the American Company; nor can there be either personal property or individual security where there are no laws. The chief agent of the American Company is the boundless despot over an extent of country which, comprising the Aleutian Islands, stretches from 57° to 60° of latitude, and from 130° to 190° of east longitude;" and he adds, in a note, "there are no Courts of Justice in Kodiak, nor any of the Company's possessions." ("Voyages," vol. ii, p. 107.) Kotzebue, who came later, while confessing his incompetency to speak on the treatment of the natives by the Company, declares his "wounded feelings and commiseration." ("Voyage," vol. iii, p. 314.) It is too probable that the melancholy story of our own aborigines has been repeated here. As these criticisms were by Russian officers they must have had a certain effect. I cannot believe
64 that the recent government, administered by the enlightened Magistrates of whom we have heard, has been obnoxious to such terrible accusations; nor must it be forgotten that the report of Lisiansky, the other Russian officer who was there at the same time, is much less painful.

Baranow, who had been so long Superintendent, retired in 1818. He is praised much by Langsdorf, who saw him in 1806, and by Lütke, who was at Sitka in 1828. Both attribute to him a genius for his place and a disinterested devotion to the interests of the Company, whose confidence he enjoyed to the end. Although administering affairs here for more than a generation without rendering any accounts, he died poor. He was succeeded by Captain Haguemeister. Since then, according to Lütke, an infinity of reforms has taken place by which order and system have been introduced into the Government.

The Russian officer, Captain Golowin, who visited these possessions in 1860, has recommended certain institutional reforms, which are not without interest to us at this time. His recommendations concern the Governor and the people. According to him the Governor should be appointed by the Crown with the concurrence of the Company, removable only when his continuance is plainly injurious to the Colony; he should be subject only to the Crown, and his powers should be limited, especially in regard to the natives; he should provide protection for the colonists by means of cruizers, and should personally visit every district annually; the colonists, Creoles, and subject natives, such as the Aleutians, should be governed by Magistrates of their own selection; the name of "free Creole" should cease; all disputes should be settled by the local Magistrates unless the parties desire an appeal to the Governor; schools should be encouraged, and, if necessary, provided at the public expense. Surely these suggestions, which are in the nature of a Reform Bill, foreshadow a condition of self-government in harmony with Republican institutions.

It is evident that these Russian Settlements, distributed through an immense region and far from any civilized neighbourhood, have little in common with those of European nations elsewhere, unless we except those of Denmark on the west coast of Greenland. Nearly all are on the coast or the islands. They are nothing but "villages" or "factories," under the protection of palisades. Sitka is an exception, due unquestionably to its selection as the head-quarters of the Government, and also to the eminent character of the Governors who have made it their home. The Executive Mansion and the social life there have been described by recent visitors, who acknowledged the charms of politeness on this distant north-western coast. Lütke describes life among its fogs, and especially the attractions of the Governor's house. This was in the

time of Admiral Wrangel, whose wife, possessing a high education, embellished this wilderness by her presence, and exhibited the example of a refined and happy household. His account of Sitkan hospitality differs in some respects from that of the English writers who succeeded. He records that fish was the staple dish at the tables of functionaries as well as of the poor, and that the chief functionary himself was rarely able to have meat for dinner. During the winter a species of wild sheep, the "musimon" or "argalis," also known in Siberia and hunted in the forest, furnished an occasional supply. But a fish diet did not prevent his house from being delightful.

Sir Edward Belcher, the English circumnavigator, while on his voyage round the world, stopped there. From him we have an account of the Executive Mansion and fortifications, which will not be out of place in this attempt to portray the existing Government. The house is of wood, described as "solid," 140 feet in length by 70 feet wide, of two stories, with lofts, capped by a lighthouse in the center of the roof which is covered with sheet iron. It is about 60 feet above the sea level, and completely commands all the anchorages in the neighbourhood. Behind is a line of picketed logs 25 feet in height, flanked at the angles by block-houses, loop-holed and furnished with small guns and swivels. The fortifications when complete "will comprise five sides, upon which forty pieces of cannon will be mounted, principally old ship guns, varying from 12- to 24-pounders." The arsenal is praised for the best of cordage in ample stores, and for the best of artificers in every department. The interior of the Greek church was found to be "splendid, quite beyond conception in such a place as this." The school and hospital had "a comparative cleanliness and much to admire, although a man-of-war's man's ideas of cleanliness are occasionally acute." But it is the social life which seems to have most surprised the gallant Captain. After telling us that "on Sunday all the officers, civil and military, dine at the Governor's," he introduces us to an evening party and dance, which the latter gave to show his English guest "the female society of Sitka," and records that everything "passed delightfully," especially that "the ladies, although self-taught, acquitted themselves with all the ease and elegance communicated by European instruction." Sir Edward adds that "the society is indebted principally to the Governor's elegant and accomplished lady, who is of one of the first Russian families, for much of this polish." And he describes sympathetically her long journey through Siberia with her husband, "on horseback or mules, enduring great hardships in a most critical moment, in order to share with him the privations of this barbarous region." But according to him barbarism is disappearing; and he concludes by declaring that "the whole establishment appears to be rapidly on the advance, and at no distant period we may hear of a trip to Norfolk Sound through America as little more than a summer excursion." (Belcher's "Voyage," vol. i, p. 107.) Is not this time near at hand?

65 Shortly afterwards, Sir George Simpson, Governor-in-chief of the Hudson Bay Company, on his overland journey round the world, stopped at Sitka. He had just crossed the continent by way of the Red River Settlements to Vancouver. He, too, seems to have been pleased. He shows us in the harbour "five sailing-vessels, ranging between 200 and 350 tons, besides a large bark in the offing in tow of a steamer," and he carries us to the Executive Mansion, already described, which reappears as "a suite of apartments, communicating, according to the Russian fashion, with each other, all of the public

rooms being handsomely decorated and richly furnished; commanding a view of the whole establishment, which was in fact a little village, while about half way down the rock two batteries on terraces frowned respectively over land and water." There was another Administrator-General since the visit of Sir Edward Belcher; but again the wife plays her charming part. After portraying her as a native of Helsingfors, in Finland, the visitor adds: "So this pretty and ladylike woman had come to this secluded home from the farthest extremity of the Empire." Evidently in a mood beyond contentment, he says: "We sat down to a good dinner in the French style, the party, in addition to our host and hostess and ourselves, comprising twelve of the Company's officers;" and his final judgment seems to be given when he says: "The good folks appear to live well. The surrounding country abounds in the chevreuil [roebuck], the finest meat that I ever ate, with the single exception of moose, while in a little stream within a mile of the fort salmon are so plentiful that, when ascending the river, they have been known literally to embarrass the movements of a canoe." (Simpson's "Journey," Vol. I, p. 227.) Such is the testimony.

With these concluding pictures I turn from the Government.

POPULATION.

II. I come now to the *Population*, which may be considered in its numbers and in its character. In neither respect, perhaps, can it add much to the value of the country, except so far as native hunters and trappers are needed for the supply of furs. Professor Agassiz touches this point in a letter which I have just received from him, where he says: "To me the fact that there is as yet hardly any population would have great weight, as this secures the Settlement to our race." But we ought to know something at least of the people about to become the subjects of our jurisdiction, if not our fellow-citizens.

(1) In trying to arrive at an idea of their *numbers*, I begin with Lippincott's "Gazetteer," as it is the most accessible, according to which the whole population in 1855, aboriginal, Russian, and Creole, was 61,000. The same estimate appears also in the "London Imperial Gazetteer" and in the "Geographie" of Wappäus. Keith Johnston, in his "Atlas," calls the population in 1852, 66,000. McCulloch, in the last edition of his "Geographical Dictionary," puts it as high as 72,375. On the other hand, the "Almanach de Gotha" for the present year, received only a few weeks ago, calls it in round numbers 50,000. This estimate seems to have been adopted substantially from the great work entitled "Les Peuples de la Russie," which from its character I am disposed to consider as the best authority.

Exaggerations are common with regard to the inhabitants of newly-acquired possessions, and this distant region has been no exception. An enthusiastic estimate once placed its population as high as 400,000. Long ago Schelekoff, an early Russian adventurer, reported that he had subjected to the Crown of Russia 50,000 "men" in the Island of Kodiak alone. But Lisiansky, who followed him there in 1805, says "the population of this island, when compared with its size, is very small." ("Voyage," p. 193.) After the "minutest research" at that time he found that it amounted only to 4,000 souls. It is much less now; probably not more than 1,500.

Of course, it is easy to know the number of those within the immediate jurisdiction of the Company. This is determined by a census from time to time. Even here the aborigines are the most numerous.

Then come the Creoles, and last the Russians. But here you must bear in mind a distinction with regard to the former persons. In Spanish America all born there of European parentage are "Creoles;" in Russian America this term is applicable only to those whose parents are European and native, in other words, "half-breeds." According to Wrangel, in 1839, the census of dependents of the Company in all its districts was 246 Russians, 684 Creoles, and 8,882 Aleutians and Kodiacks, being in all 9,812. Of these, 4,918 were men, and 4,804 were women. Here the number of Russians is small. There is another Report a little later preserved by Wappäus, which is not materially different. In 1851, according to the Report of the Company, there was an increase of Russians and Creoles, with a corresponding diminution of aborigines; being 505 Russians, 1,703 Creoles, and 7,055 aborigines; in all, 9,283. In 1857 there were 644 Russians, 1,903 Creoles, and 7,245 aborigines; in all, 9,792, of whom 5,733 were men, and 4,659 were women. The increase from 1851 to 1857 was only 500, or about 1 per cent. annually. In 1860 there were "some 100" Russians, 2,000 Creoles, and 8,000 aborigines, amounting in all to 10,540, of whom 5,382 were men, and 5,158 were women. I am thus particular with these details that you may see how stationary population has been even within the sphere of the Company.

The number of Russians and Creoles in the whole Colony at the present time cannot be more than 2,500. The number of aborigines under the direct Government of the Company may be 8,000. There remain also the mass of aborigines outside the jurisdiction of the Company, and having only a temporary or casual contact with it for pur-
66 poses of trade. In this respect they are not unlike the aborigines of the United States while in their tribal condition, described so often as "Indians not taxed." For the number of these outside aborigines I prefer to follow the authority of the recent work already quoted, "Les Peuples de la Russie," according to which they are estimated at between 40,000 and 50,000.

(2) In speaking of *character* I turn to a different class of materials. The early Russians here were not pilgrims. They were mostly runaways, fleeing from justice. Langsdorf says that "the greater part of the inferior officers of the different settlements were Siberian criminals, malefactors, and adventurers of various kinds." ("Voyages," Vol. II, p. 67.) Their single and exclusive business was the collection of furs, from which they obtained the name of "Promüschleniks," or fur collectors. But the name very early acquired a bad odour. Here again we have the same Russian authority, who, after saying that the inhabitants of the distant islands are under the superintendence of a Promüschlenik, adds, "which is, in other words, under that of a rascal, by whom they are oppressed, tormented, and plundered in every possible way." (*Ibid.*, p. 70.) It must not be forgotten that this authentic portrait is not of our day.

The aborigines are all in common language called Esquimaux; but they differ essentially from the Esquimaux of Greenland, and they also differ among themselves. Though popularly known by this family name, they have as many divisions and subdivisions, with as many languages and idioms, as France once had. There are large groups, each with its own nationality and language, and there are smaller groups, each with its tribal idiom. In short, the great problem of language is repeated here. Its forms seem to be infinite. Scientific inquiry traces many to a single root, but practically they are different. Here is that confusion of tongues which yields only to the presence of civili-

zation, and it becomes more remarkable, as the idiom is often confined to so small a circle.

If we look at them ethnographically we shall find two principal groups or races, the first scientifically known as Esquimaux, and the second as Indians. By another nomenclature, which has the sanction of authority and of usage, they are divided into Esquimaux, Aleutians, Kenaians, and Koloschians, being four distinct groups. The Esquimaux and Aleutians are said to be Mongolian in origin. According to a doubtful theory they passed from Asia to America by the succession of islands beginning on the coast of Japan and extending to Alaska, which for this purpose became a bridge between the two continents. The Kenaians and Koloschians are Indians, belonging to known American races; so that these four groups are ethnographically resolved into two, and the two are resolved popularly into one.

There are general influences more or less applicable to all these races. The climate is peculiar, and the natural features of the country are commanding. Cool summers and mild winters are favourable to the huntsman and fisherman. Lofty mountains, volcanic forms, large rivers, numerous islands, and an extensive sea-coast constitute the great book of Nature for all to read. None are dull. Generally they are quick, intelligent, and ingenious, excelling in the chase and in navigation, managing a boat as the rider his horse, until the man and the boat seem to be one. Some are very skillful with tools, and exhibit remarkable taste. The sea is bountiful, and the land has its supplies. From these they are satisfied. Better still, there is something in their nature which does not altogether reject the improvements of civilization. Unlike our Indians, they are willing to learn. By a strange superstition, which still continues, these races derive their descent from different animals. Some are gentle and pacific, others are warlike. All I fear, are slave-holders; some are cruel task-masters, others in the interior are reputed to be cannibals. But the country back from the sea-coast is still an undiscovered secret.

(1) Looking at them in their ethnographical groups I begin with the *Esquimaux*, who popularly give their name to the whole. They number about 17,000, and stretch along the indented coast from its eastern limit on the Frozen Ocean to the mouth of the Copper River in 60° north latitude, excluding the Peninsula of Alaska, occupied by the Aleutians, and the Peninsula of Kenay, occupied by the Kenaians. More powerful races of Indian origin, following the courses of the great rivers northward and westward, have gradually crowded the Esquimaux from the interior, until they constitute a belt on the salt water, including the islands of the coast, and especially Kodiak. Their various dialects are traced to a common root, while the prevailing language betrays an affinity with the Esquimaux of Greenland, and the intervening country watered by the Mackenzie. They share the characteristics of that extensive family, which, besides spreading across the continent, occupies an extent of sea-coast greater than any other people of the globe, from which their simple navigation has sallied forth so as to give them the name of Phœnicians of the North. Words exclusively belonging to the Esquimaux are found in the dialects of other races completely strangers to them, as Phœnician sounds are observed in the Celtic speech of Ireland.

The most known of the Russian Esquimaux is the small tribe now remaining on the Island of Kodiak, which from the beginning has been a center of trade. Although by various intermixture they already approach the Indians of the coast, losing the Asiatic type, their speech

remains as a distinctive sign of their race. They are Esquimaux, and I describe them in order to give an idea of this people.

The men are tall, with copper skins, small black eyes, flat faces, and teeth of dazzling whiteness. Once the women pierced the nostrils, the lower lip, and the ears for ornaments; but now only the nostrils are pierced. The aboriginal costume is still preserved, especially out of doors. Their food is mostly from the sea, without the roots or
67 berries which the island supplies. The flesh and oil of the whale are a special luxury. The oil is drunk pure or to season other food. Accustomed to prolonged abstinence, they exhibit at times an appetite amounting to prodigy. In one night six men were able to devour the whole of a large bear. A strong drink made from the strawberry and myrtle, producing the effect of opium, has yielded to brandy. Sugar and tea are highly esteemed; but snuff is a delight. Lisiansky records that they would go out of their way 20 miles merely for a pinch of snuff. They have tools of their own, which they use with skill. Their baidars, or canoes, are distinguished for completeness of finish and beauty of form. Unlike those of the Koloschians, lower down on the coast, which are hollowed from the trunks of trees, they are of seal-skins stretched on frames, with a single aperture in the covering to receive the person of the master. The same skill appears in the carving of wood, whalebone, and walrus ivory. Their general mode of life is said to be like that of other tribes on the coast. To all else they add a knowledge of the healing art and a passion for gaming.

Opposite to Kodiak, on the mainland to the east, are the Tshugatchi, a kindred tribe, speaking the same language, but a different dialect. To the north is a succession of kindred tribes, differing in speech, and each with local peculiarities, but all are represented as kind, courteous, hospitable, and merry. It is a good sign that merriment should prevail. Their tribal names are derived from a neighbouring river or some climatic circumstance. Thus, for instance, those on the mighty Kwichpak have the name of Kwichpakmutes, or "inhabitants of the great river." Those on Bristol Bay are called by their cousins of Norton Sound Akhkonghmutes, or "inhabitants of the warm country;" and the same designation is applied to the Kodiaks. Warmth, like other things in this world, is comparative, and to an Esquimaux at 64° north latitude another five degrees further south is in a "warm country." These northern tribes have been visited lately by our Telegraphic Exploring Expedition, who report especially their geographical knowledge and good disposition. As the remains of Major Kennicott descended the Kwichpak they were not without sympathy from the natives. Curiosity also had its part. At a village where the boat rested for the night the Chief announced that it was the first time white men had ever been seen there.

(2) The *Aleutians*, sometimes called Western Esquimaux, number about 3,000. By a plain exaggeration, Knight, in his "Cyclopædia of Geography," puts them at 20,000. Their home is the archipelago of volcanic islands whose name they bear, and also a portion of the contiguous Peninsula of Alaska. The well-defined type has already disappeared, but the national dress continues still. This is a long shirt with tight sleeves, made from the skins of birds, either the sea-parrot or the diver. This dress, which is called the "parka," is indispensable as clothing, blanket, and even as habitation during a voyage, being a complete shelter against wind and cold. They, too, are fishermen and huntsmen, but they seem to excel as artificers. Their instruments and *utensils* have been noted for beauty, and their baidars were pronounced

by Sauer "infinitely superior to those of any other island." Still another navigator declares them to be "the best means yet discovered to go from place to place, either upon the deepest or shallowest water, in the quickest, easiest, and safest manner possible." (Langsdorf's "Voyage," vol. i, p. 43.) These illustrate their nature, which is finer than that of their neighbours. They are at home on the water, and excite admiration by the skill with which they manage their elegant craft, so that Admiral Lütke recognized them as Cossacks of the sea.

Ounalaska is the principal of these islands, and, from the time they were first visited, seems to have excited a peculiar interest. Captain Cook painted it kindly; so have succeeding navigators. And here have lived the highlanders who seem to have given to navigators a new experience. Alluding especially to them, the reporter of Billings' voyage says: "The capacity of the natives of these islands infinitely surpasses every idea that I had formed of the abilities of savages" (p. 273). There is another remark of this authority which shows how they had yielded, even in their favourite dress, to the demands of commerce. After saying that formerly they had worn garments of sea-otter, he pathetically adds, "but not since the Russians have had any intercourse with them" (p. 155). Poor islanders! Exchanging choice furs, once their daily wear, for meaner skins.

(3) The *Kenaians*, numbering as many as 25,000, take their common name from the Peninsula of Kenay, with Cook's Inlet on the north and Prince William Sound on the south. Numerous beyond any other family in Russian America, they belong to a widespread and teeming Indian race, which occupies all the northern interior of the continent, stretching from Hudson Bay in the east to the Esquimaux in the west. This is the great nation called sometimes Athabascan, or from the native name of the Rocky Mountains, on whose flanks they live, Chepewyan, but more properly designated as Tinneh, with branches in Southern Oregon and Northern California, and then again with other offshoots, known as the Apaches and Navajoes, in Arizona, New Mexico, and Chihuahua, more than thirty parallels of latitude from the parent stem. Of this extended race, the north-western branch, known to travellers as Loucheux, and in their own tongue as Kütchin, after occupying the inner portion of Russian America on the Youkon and the Porcupine, reached the sea-coast at Cook's Inlet, where it appears under the name of Kenaians. The latter are said to bear about the same relation in language and intellectual development to the entire group as the islanders of Kodiak bear to the Esquimaux.

The Kenaians call themselves in their own dialect by yet another name, Thnainas, meaning men, thus by a somewhat boastful designation asserting manhood. Their features and complexion associate them with the red men of America, as does their speech. The first to visit them was Cook, and he was struck by the largeness of their
68 heads, which seemed to him disproportioned to the rest of the body. They were strong-chested also, with thick short necks, spreading faces, eyes inclined to be small, white teeth, black hair, and thin beard. Their persons seemed to be clean and decent without grease or dirt. In dress they were thought to resemble the people of Greenland. Their boats had a similar affinity. But in these particulars they were not unlike the other races I have already described. They were clothed in the skins of animals with the fur outward, or sometimes in the skins of birds, over which, as a protection against rain, was worn a frock made from the intestines of the whale, and resembling the gold-beater leaf, as was observed by Behring in his early voyage.

Their boats were of seal-skin stretched on frames, and were of different sizes. In one of these Cook counted twenty women and one man, besides children. At that time, though thievish in propensity, they were not unamiable. Shortly afterwards they were reported by Russian traders, who had much to do with them, as "good people," who behaved "in a very friendly manner." (Billings' "Voyage," p. 197.) I do not know that they have lost this character since.

Here, too, is the accustomed multiplicity of tribes, each with its idiom, and sometimes differing in religious superstition, especially on the grave question of descent from the dog or the crow. There is also a prevailing usage for the men of one tribe to choose their wives from another tribe, when the tribal character of the mother attaches to the offspring, which is another illustration of the law of slavery *partus sequitur ventrem*. The late departure from this usage is quoted by the old men as a sufficient reason for the mortality which has afflicted the Kenaians, although a better reason may be found in the ravages of the small-pox, unhappily introduced by the Russians. In 1838, 10,000 persons on the coast are reported to have fallen victims to this disease.

(4) Last of the four races are the *Koloschians*, numbering about 4,000, who occupy the coast and islands from the mouth of the Copper River to the southern boundary of Russian America, making about sixteen Settlements. They belong to an Indian group extending as far south as the Straits of Fuca, and estimated to contain 25,000 souls. La Pérouse, after considerable experience of the aborigines on the Atlantic coast, asserts that those whom he saw here are not Esquimaux. ("Voyage," Tom. 2, p. 205.) The name seems to be of Russian origin, and is equivalent to Indian. Here again is another variety of languages and as many separate nations. Near Mount St. Elias are the Jacoutats, who are the least known; then come the Thlinkitts, who occupy the islands and coast near Sitka, and are known in Oregon under the name of Stikines; and then again we have the Kaigans, who, beginning on Russian territory, overlap Queen Charlotte's Island, beneath the British flag. All these, with their subdivisions, are Koloschians, but every tribe or nation has four different divisions, derived from four different animals, the whale, the eagle, the crow, and the wolf, which are so many heraldic devices, marking distinct groups.

There are points already noticed in the more northern groups which are repeated here. As among the Kenaians, husband and wife are of different animal devices. A crow cannot marry a crow. There is the same skill in the construction of canoes, but the stretched seal-skin gives place here to the trunk of a tree shaped and hollowed so that it will sometimes hold forty persons. There are good qualities among the Aleutians which the Koloschians do not possess, but they have perhaps a stronger sense. They are of constant courage. As daring navigators they are unsurpassed, sailing 600 or 700 miles in their open canoes. Some are thrifty, and show a sense of property. Some have developed an aptitude for trade unknown to their northern neighbours or to the Indians of the United States, and will work for wages, whether in tilling the ground or other employment. Their superior nature discards corporal punishment, even for boys, as an ignominy not to be endured. They believe in a Creator and in the immortality of the soul; but here a mystic fable is woven into their faith. The spirits of heroes dead in battle are placed in the sky and appear in the Aurora Borealis. Long ago a deluge occurred, when the human family was saved in a floating vessel, which, after the subsidence of the waters, struck on a rock and broke *in halves*. The Koloschians represent one-half of the vessel, and the

rest of the world the other half. Such is that pride of race which civilization does not always efface.

For generations they have been warriors, prompt to take offence and vindictive, as is the nature of the Indian race; always ready to exact an eye for an eye and a tooth for a tooth. This character has not changed. As was the case once in Italy, the dagger is an inseparable companion. Private quarrels are common; the duel is an institution. So is slavery still, having a triple origin in war, purchase, or birth. The slave is only a dog, and must obey his master in all things, even to taking the life of another. He is without civil rights; he cannot marry or possess anything; he can eat only the offal of another, and his body, when released by death, is thrown into the sea. A Chief sometimes sacrifices his slaves, and then another Chief seeks to outdo him in his inhumanity. All this is indignantly described by Sir Edward Belcher and Sir George Simpson. But a slave once a freed man has all the rights of a Koloschian. Here, too, are the distinctions of wealth. The rich paint their faces daily; the poor renew the paint only when the colours begin to disappear.

These are the same people who for more than a century have been a terror on this coast. It was Koloschians who received the two boats' crews of the Russian discoverer in 1741, as they landed in one of its wooded coves, and no survivor returned to tell their fate. They were the actors in another tragedy at the beginning of the century, when the Russian fort at Sitka was stormed and its defenders put to death,
69 some with excruciating torture. Lisiansky, whose visit was shortly afterward, found them "a shrewd, bold, though perfidious people," whose Chiefs used "very sublime expressions," and swore oaths, like that of Demosthenes, by their ancestors living and dead, "calling heaven, earth, sun, moon, and stars to witness, particularly when they want to deceive." ("Voyage," p. 16.)

Since then the fort has been repeatedly threatened by these warriors, who multiply by reinforcements from the interior, so that the Governor in 1837 said, "Although 700 only are now in the neighbourhood, 7,000 may arrive in a few hours." (Belcher's "Voyage," vol. i, p. 94.)

A little later their constant character was recognized by Sir George Simpson, when he pronounced them "numerous, treacherous, and fierce," in contrast with Aleutians, whom he describes as "peaceful even to cowardice." And yet this fighting race is not entirely indocile, if we may credit recent report, that its warriors are changing to traders."

CLIMATE.

III. From population I pass to *Climate*, which is more important, as it is a constant force. Climate is the key to this whole region. It is the governing power which rules production and life, for Nature and man each must conform to its laws. Here at last the observations of science give to our inquiry a solid support.

Montesquieu has a famous chapter on the influence of climate over the customs and institutions of a people. Conclusions which in his day were regarded as visionary or far-fetched are now unquestioned truth. Climate is a universal master. But nowhere, perhaps, does it appear more eccentric than in the southern portion of Russian America. Without a knowledge of climatic laws the weather here would seem like a freak of Nature. But a brief explanation shows how all its peculiarities are the result of natural causes, which operate with a force as unerring as gravitation. Heat and cold, rain and fog, to say noth-

ing of snow and ice, which play such a part in this region, are not abnormal, but according to law.

This law has been known only of late years. Even so ingenious an inquirer as Captain Cook noticed the mildness of the climate without attempting to account for it. He records that, in his opinion, "cattle might exist in Ounalaska all the year round without being housed" ("Voyages," vol. ii, p. 520); and this was in latitude 53° 52′, on the same parallel with Labrador, and several degrees north of Quebec; but he stops with a simple statement of the suggestive fact. This, however, was inconsistent with the received idea at the time.

A geographer, who wrote just before Cook sailed, has a chapter to show that the climate of Quebec continues across the continent, and, by a natural consequence, that America is colder than Asia. I refer to the "Mémoires Géographiques" of Engel (p. 196). He would have been astonished had he seen the revelations of an isothermal map, showing that precisely the reverse is true; that the climate of Quebec does not continue across the continent; that the Pacific coast of our continent is warmer than the corresponding Atlantic coast, and that America is warmer than Asia, so far at least as can be determined by the two opposite coasts. Such is the unquestionable truth, of which there are plentiful signs. The flora on the American side, even in Behring Straits, is more vigorous than that on the Asiatic side; the American mountains have less snow than their Asiatic neighbours.

Among many illustrations of the temperature I know none more direct than that furnished by the late Honourable William Sturgis, of Boston, who was familiar with the north-west coast at the beginning of the century, in a lecture on the Oregon question in 1845. After remarking that the climate there is "altogether milder, and the winter less severe, than in corresponding latitudes on this side of the continent," he proceeds to testify that, "as a proof of its mildness, he had passed seven winters between the latitudes of 51° and 57°, frequently lying so near the shore as to have a small cable fast to the trees, and only once was his ship surrounded by ice sufficiently firm to bear the weight of a man." But this intelligent navigator assigns no reason. To the common observer it seemed as if the temperature grew milder, travelling with the sun until it dipped in the ocean.

Among the authorities open before me I quote two, which show that this difference of temperature between the Atlantic and Pacific coasts was imagined, if not actually recognized, during the last century. Portlock, the Englishman, who was on this coast in 1787, after saying that during stormy and unsettled weather the air had been mild and temperate, remarks that he is "inclined to think that the climate here is not so severe as has been generally supposed." ("Voyage," p. 188.) La Pérouse, the Frenchman, who was here the same year, and had been before in Hudson Bay, on the other side of the continent, says still more explicitly that "the climate of this coast appeared to him infinitely milder than that of Hudson Bay in the same latitude, and that the pines which he had measured here were much larger." ("Voyage," vol. ii, p. 187.) Langsdorf, when at Sitka in 1806, records that Mr. John D. Wolff, a citizen of the United States, who had passed the winter at the Settlement, "is much surprised at finding the cold less severe than at Boston, Rhode Island, and other provinces of the United States which lie more to the south." ("Voyages," vol. ii, p. 101.)

All this is now explained by certain known forces in Nature. Of these, the most important is a thermal current in the Pacific,
70 corresponding to the Gulf Stream in the Atlantic. The latter,

having its origin in the heated waters of the Gulf of Mexico, flows as a river through the ocean northward, encircling England, bathing Norway, and warming all within its influence. A similar stream in the Pacific, sometimes called the Japanese current, having its origin under the Equator near the Philippines and the Malaccas, amid no common heats, after washing the ancient Empire of Japan sweeps northward until, forming two branches, one moves onward to Behring Straits and the other bends eastward along the Aleutian Islands, and then southward along the coast of Sitka, Oregon, and California. Geographers have described this "heater," which in the lower latitudes is as high as 81 degrees of Fahrenheit, and even far to the north it is as high as 50 degrees. A chart now before me in Findlay's "Pacific Ocean Directory" portrays its course as it warms so many islands and such an extent of coast. An officer of the United States navy, Lieutenant Bent, in a paper before the Geographical Society of New York, while exhibiting the influence of this current in mitigating the climate of the north-west coast, mentions that vessels on the Asiatic side, becoming unwieldy with accumulations of ice on the hull and rigging, run over to the higher latitude on the American side and "thaw out." But the tepid waters which melt the ice on a vessel must change the atmosphere wherever they flow.

I hope you will not regard the illustration as too familiar if I remind you that in the economy of a household pipes of hot water are sometimes employed in tempering the atmosphere by heat carried from below to rooms above. In the economy of Nature these thermal currents are only pipes of hot water, modifying the climate of continents by carrying heat from the warm cisterns of the south into the most distant places of the north. So also there are sometimes pipes of hot air, having a similar purpose; and these, too, are found in this region. Every ocean wind, from every quarter, as it traverses the stream of heat, takes up the warmth and carries it to the coast, so that the oceanic current is reinforced by an aerial current of constant influence.

But these forces are aided essentially by the configuration of the north-west coast, with a lofty and impenetrable barricade of mountains, by which its islands and harbours are protected from the cold of the north. Occupying the Aleutian Islands, traversing the Peninsula of Alaska, and running along the margin of the ocean to the latitude of 54° 40′, this mountain ridge is a climatic division, or, according to a German geographer, a "climatic shed," such as perhaps exists nowhere else in the world. Here are Alps, some of them volcanic, with Mount St. Elias higher than Mont Blanc, standing on guard against the Arctic Circle. So it seems even without the aid of science. Here is a dyke between the icy waters of Behring Sea and the milder Southern Ocean. Here is a partition between the treeless northern coast and the wooded coast of the Kenaians and Koloschians. Here is a fence which separates the animal kingdom of this region, leaving on one side the walrus and ice-fox from the Frozen Ocean, and on the other side the humming bird from the tropics. I simply repeat the statements of geography. And now you will not fail to observe how by this configuration the thermal currents of ocean and air are left to exercise all their climatic power.

There is one other climatic incident here, which is now easily explained. Early navigators record the prevailing moisture. All are enveloped in the fog. Behring names an island Foggy. Another gives the same designation to a cape at the southern extremity of Russian America. Cook records fog. La Pérouse speaks of continued rain and fog in the month of August. And now visitors, whether for science or business,

make the same report. The forests testify also. According to physical geography it could not be otherwise. The warm air from the ocean encountering the snow-capped mountains would naturally produce this result. Rain is nothing but atmosphere condensed and falling in drops to the earth. Fog is atmosphere still held in solution, but so far condensed as to become visible. This condensation occurs when the air is chilled by contact with a colder atmosphere. Now these very conditions occur on the north-west coast. The ocean air, as it comes in contact with the elevated range, is chilled until its moisture is set free.

Add to these influences, especially as regards Sitka, the presence of mountain masses and of dense forests, all tending to make this coast warmer in winter and colder in summer than it would otherwise be.

Practical observation has verified these conclusions of science. Any isothermal map is enough for our purpose; but there are others which show the relative conditions generally of different portions of the globe. I ask attention to those of Keith Johnston, in his admirable Atlas. But I am glad to present a climatic table of the Pacific coast in comparison with the Atlantic coast, which has been recently compiled, at my request, from the archives of the Smithsonian Institution with permission of its learned Secretary, by a collaborator of the Institution, who visited Russian America under the auspices of the Telegraph Company. In studying this table we shall be able to comprehend the relative position of this region in the physical geography of the world:

71	Mean temperature in degrees Fahrenheit.					Precipitation in rain or snow: Depth in inches.				
	Spring.	Summer.	Autumn.	Winter.	Year.	Spring.	Summer.	Autumn.	Winter.	Year.
St. Michael's, Russian America (lat. 63° 28′ 45″ north)	28.75	52.25	27.00	7.00	27.48	.....	.....	.....	.....	.....
Fort Youkon, Russian America (lat. (near) 67°)	14.22	59.67	17.37	23.80	16.92	.....	.....	.....	.....	.....
Ikomut, Russian America (lat. 61° 47′)	19.62	49.32	36.05	0.95	24.57	.....	.....	.....	.....	.....
Sitka, Russian America (lat. 57° 3′)	39.65	53.37	43.80	32.30	42.12	18.32	15.75	32.10	23.77	89.94
Puget Sound, Washington Territory (lat. 47° 7′)	48.88	63.44	51.30	39.38	50.75	7.52	3.68	15.13	20.65	46.98
Astoria, Oregon (lat. 40° 11′)	51.16	61.36	53.55	42.43	52.13	16.43	4.85	21.77	44.15	87.20
San Francisco, California (lat. 37° 48′)	55.39	58.98	58.29	50.25	55.73	6.65	0.09	2.69	13.49	22.92
Nain, Labrador (lat. 57° 10′)	23.67	48.57	33.65	0.40	26.40	.....	.....	.....	.....	.....
Montreal, Canada East (lat. 45° 30′)	41.20	68.53	44.93	16.40	42.77	7.66	11.20	7.42	0.72	27.00
Portland, Maine (lat. 43° 39′)	40.12	63.75	45.75	21.52	42.78	.....	.....	.....	.....	.....
Fort Hamilton, New York (lat. 40° 37′)	47.84	71.35	55.79	32.32	51.82	11.69	11.64	9.88	10.31	43.22
Washington, District of Columbia	54.19	73.07	53.91	33.57	53.69	10.48	10.53	10 16	10.06	41.24

It will be seen from this table that the winters of Sitka are relatively warm, not differing much from those of Washington, and several degrees warmer than those of New York; but the summers are colder. The mean temperature of winter is 32° 30′, while that of summer is 53° 37′. The Washington winter is 38° 57′; the Washington summer is 73° 7′. These points exhibit the peculiarities of this coast—warm winters and cool summers.

The winter of Sitka is milder than that of many European capitals. It is much milder than that of St. Petersburgh, Moscow, Stockholm,

Copenhagen, Berne, or Berlin. It is milder even than that of Manheim, Stuttgard, Vienna, Sebastopol in the Crimea, or Turin. It is not much colder than that of Padua. According to observations at Sitka in 1831, it froze for only two days in December and seven days in January. In February the longest frost lasted five days; in March it did not freeze during the day at all, and rarely in the night. During the next winter the thermometer did not fall below 21 degrees Fahrenheit; in January 1834 it reached 11 degrees. On the other hand a temperature of 50 degrees has been noted in January. The roadstead is open throughout the year, and only a few land-locked bays are frozen.

The prevailing dampness at Sitka makes a residence there far from agreeable, although it does not appear to be injurious to health. England is also damp, but Englishmen boast that theirs is the best climate of the world. At Sitka the annual fall of rain is 89 inches. The mean annual fall in all England is 40 inches, although in mountainous districts of Cumberland and Westmoreland the fall amounts to 90 and even 140 inches. In Washington it is 41 inches. The forests at Sitka are so wet that they will not burn, although frequent attempts have been made to set them on fire. The houses, which are of wood, suffer from the constant moisture. In 1828 there were 20 days when it rained or snowed continuously; 120 when it rained or snowed part of the day, and only 66 days of clear weather. Some years only 40 bright days have been counted. Hinds, the naturalist, records only 37 "really clear and fine days." A scientific observer who was there last year counted 60. A visitor for 14 days found only 2 when nautical observations could be made; but these were as fine as he had ever known in any country.

The whole coast from Sitka to the Peninsula of Alaska seems to have the same continuous climate, whether as regards temperature or moisture. The Island of Kodiak and the recess of Cook's Inlet are outside of this climatic curve, so as to be comparatively dry. Langsdorf reports the winters "frequently so mild in the lower parts of Kodiak that the snow does not lie upon the ground for any length of time, nor is anything like severe cold felt." The Aleutian Islands, further west, are somewhat colder than Sitka, although the difference is not great. The summer temperature is seldom above 66 degrees; the winter temperature is more seldom as low as 2 degrees below zero. The snow falls about the beginning of October, and is seen sometimes as late as the end of April; but it does not remain long on the surface. The mean temperature of Ounalaska is about 40 degrees. Chamisso found the temperature of spring water at the beginning of the year to be 38 degrees 50 minutes. There are some years when it rains on this island the whole winter. The fog prevails from April till the middle of July, when they seem for the time to be driven further north. The islands northward toward Behring Straits are proportionately colder, but you will not forget that the American coast is milder than the opposite coast of Asia.

72 From Mr. Bannister I have an authentic statement with regard to the temperature north of the Aleutians, as observed by himself in the autumn of 1865 and the months following. Even here the winter does not seem so terrible as is sometimes imagined. During most of the time work could be done with comfort in the open air. It was only when it stormed that the men were kept within doors. In transporting supplies from St. Michael's to Nulato, a distance of 250 miles, they found no hardship, even when obliged to bivouac in the open air.

On Norton Sound and the Kwichpak River winter may be said to commence at the end of September, although the weather is not severe

till the end of October. The first snow falls about the 20th or 25th September. All the small ponds and lakes were frozen early in October. The Kwichpak was frozen solid about the 20th or 25th of this month. On the 1st November the harbour at St. Michael's was still open, but on the morning of the 4th it was frozen solid enough for sledges to cross on the ice. In December there were two thaws, one of them accompanied by rain for a day. The snow was about 2 feet deep at the end of the month. January was uniformly cold, and it was said that at one place 65 miles north-east of St. Michael's the thermometer descended to 58 degrees below zero. February was unusually mild all over the country. In the middle of the month there was an extensive thaw, with showers of rain. About half of the snow disappeared, leaving much of the ground bare. March was pleasant, without very cold weather. Its mean temperature was 20 degrees; its minimum was 3 degrees below zero.

Spring commences on the Kwichpak on the 1st May, or a few days later, when the birds return and vegetation begins to appear. The ice did not entirely disappear from the river till after the 20th May. The sea ice continued in the Bay of St. Michael's as late as the 1st June. The summer temperature is much higher in the interior of the country than on the coast. Parties travelling on the Kwichpak in June complained sometimes from the heat.

The River Youkon, which, flowing into the Kwichpak, helps to swell that stream, is navigable for at least four, if not five, months in the year. The thermometer at Fort Youkon is sometimes at 65 degrees below zero of Fahrenheit, and for three months of a recent winter it stood at 50 degrees below zero without variation. In summer it rises above 80 degrees in the shade; but a hard frost occurs at times in August. The south-west wind brings warmth; the north-east wind brings cold. Some years there is no rain for months, and then again showers alternate with sunshine. The snow packs hard at an average of 2½ feet deep. The ice is 4 or 5 feet thick; in a severe winter it is 6 feet thick. Life at Fort Youkon under these rigours of Nature, although not inviting, is not intolerable.

Such is the climate of this extensive region, so far as is known, along its coast, among its islands, and on its great rivers, from its southern limits to its most northern ice, with contrasts and varieties such as Milton describes:

> For hot, cold, moist and dry, four champions fierce
> Strive here for mastery.

VEGETABLE PRODUCTS.

IV. *Vegetable Products* depend upon climate. They are determined by its laws. Therefore what has been already said upon the one prepares the way for the consideration of the other; and here we have the reports of navigators and the suggestions of science.

From the time this coast was first visited navigators reported the aspects which Nature assumed. But their opportunities were casual, and they were obliged to confine themselves to what was most obvious. As civilization did not exist, the only vegetable products were indigenous to the soil. These were trees, berries, and plants. At the first landing, on the discovery of the coast by Behring, Steller found among the provisions in one of the Indian cabins "a sweet herb dressed for food in the same manner as in Kamtchatka." That "sweet herb" is the first vegetable production of which we have any record on this

coast. At the same time, although ashore only six hours, this naturalist "gathered herbs and brought such a quantity to the ship that the describing of them took him a considerable time." This description it is said was adopted afterwards in the *Flora Siberica.*

Trees were noticed even before landing. They enter into descriptions, and are often introduced to increase the savage wildness of the scene. La Pérouse doubts "if the deep valleys of the Alps and the Pyrenees present a picture so frightful and at the same time so picturesque, which would deserve to be visited by the curious if it were not at one of the extremities of the earth." (Tom. 2, p. 191.) Lisiansky, as he approached the coast of Sitka, records that "nothing presented itself to the view but impenetrable woods reaching from the waterside to the very tops of the highest mountains, so wild and gloomy that they appeared more adapted for the residence of wild beasts than of men" (p. 145). Lütke portrays the "savage and picturesque aspect" of the whole north-west coast. (Tom. 1, p. 101.)

As navigators landed they saw Nature in detail; and here they were impressed by the size of the trees. Cook finds at Prince William Sound "Canada and spruce pine, some of them tolerably large." La Pérouse alludes to trees more than once. He describes pines measuring 6 feet in diameter and 140 feet in height, and then again introduces us to "those superb pines fit for the masts of our largest vessels."

73 Portlock notices in Cook's Inlet "wood of different kinds in great abundance, such as pine, black birch, witch hazel, and poplar; many of the pines large enough for lower masts to a ship of 400 tons burden;" and then again at Port Etches he noticed "trees of the pine kind, some very large, a good quantity of alder, a kind of hazel, but not larger than will do for making handspikes." Meares reports "woods thick," also "the black pine in great plenty, capable of making excellent spars." Vancouver reports in latitude 60° 1′ "a woodland country." Sauer, who was there a little later, in the expedition of Billings, saw trees 6 feet in diameter, and 150 feet in height, "excellent wood for ship-building." In Prince William Sound the ship "took in a variety of fine spars," and he proceeds to say, "the timber comprised a variety of pines of immense thickness and height, some entirely tough and fibrous, and of these we made our best oars." Lisiansky says that at Kodiak, "for want of fir he made a new bowsprit of one of the pine trees, which answered admirably." Lütke testifies to the "magnificent pine and fir" at Sitka, adding what seems an inconsistent judgment with regard to its durability. Belcher notices Garden Island, in latitude 60° 21′, as "covered with pine trees;" and then again at Sitka speaks of a "very fine-grained bright yellow cypress as the most valuable wood, which, besides being used in boats, was exported to the Sandwich Islands in return especially for Chinese goods."

Turning westward from Cook's Inlet the forests on the sea-line are rarer until they entirely disappear. The first Settlement on the Island of Kodiak was on the south-western coast, but the want of timber there caused its transfer to the north eastern coast, where there are "considerable forests of fine tall trees." But where trees are wanting grass seems to abound. This is the case with Kodiak, the Peninsula of Alaska, and the Aleutian Islands generally. Of these, Ounalaska, libelled by the immortal verse of Campbell, has been the most described. This well-known island is without trees; but it seems singularly adapted to the growth of grass, which is often so high as to impede the traveller, and to over-top even the willows. The mountains themselves are for a considerable distance clothed with rich turf. One of these scenes

is represented in a print which you will find among the views of the vegetation of the Pacific in the London reproduction of the work of Kittlitz. This peculiarity was first noticed by Cook, who says, with a sailor sententiousness, that he did not see there "a single stick of wood of any size," but "plenty of grass very thick and to a great length." Lütke records that after leaving Brazil he met nothing so agreeable as the grass of this island.

North of Alaska, on Behring Sea, the forests do not approach the coast, except at the heads of bays and sounds, although they abound in the interior, and extend even to within a short distance of the Frozen Ocean. Such is the personal testimony of a scientific observer who has recently returned from this region. In Norton's Sound, Cook, who was the first to visit it, reports "a coast covered with wood, an agreeable sight," and, on walking in the country, "small spruce trees, none more than 6 or 8 inches in diameter." The next day he sent men ashore "to cut brooms, which he needed, and the branches of spruce trees for brewing beer." On the Kwichpak and its affluent, the Youkon, trees are sometimes as high as 100 feet. The supply of timber at St. Michael's is from the drift wood of the river. Near Fort Youkon, at the junction of the Porcupine and the Youkon, are forests of pine, poplar, willow, and birch. The pine is the most plentiful; but the small islands in the great river are covered with poplar and willow. Immense trunks rolling under the fort show that there must be large trees nearer the head-waters.

But even in northern latitudes the American coast is not without vegetation. Grass here takes the place of trees. At Fort Youkon, in latitude 67°, there is "a thin, wiry grass." Navigators notice the contrast between the opposite coasts of the two continents. Kotzebue, while in Behring Straits, where the two approach each other, was struck by black, mossy rocks frowning with snow and icicles on the Asiatic side, while on the American side "even the summits of the highest mountains were free from snow, and the coast was covered with a green carpet." ("Voyage," vol. i, p. 249.) But the contrast with the Atlantic coast of the continent is hardly less. The northern limit of trees is full seven degrees higher in Russian America than in Labrador. In point of fact, on the Atlantic coast, in latitude 57° 58′, which is that of Sitka, there are no trees. All this is most suggestive.

Next after trees early navigators speak oftenest of *berries*, which they found in profusion. Not a sailor lands who does not find them. Cook reports "berries" on Norton Sound, and "a great variety" at Ounalaska. Portlock finds at Port Etches "fruit bushes in great abundance, such as bilberry, raspberry, strawberry, and currant, red and black." At Prince William Sound "any quantity might be gathered for a winter stock." Meares saw there "a few black currant bushes." Billings finds at Kodiak "several species of berries, with currants and raspberries in abundance, the latter white, but extremely large, being bigger than a mulberry." Langsdorf finds all these at Ounalaska, with whortleberries and cranberries besides. Belcher reports at Garden Island "strawberries, pigeon-berries, whortleberries, and a small cranberry in tolerable profusion, without going in search of them." All these I quote precisely, and in the order of time.

Next to berries were *plants* for food; and these were in constant abundance. Behring, on landing at the Shumagin Islands, observed the natives "to eat roots which they dug out of the ground, and scarce shaked off the earth before they ate them." Cook reports at Ounalaska "a great variety of plants, such as are found in Europe and other

parts of America, particularly Newfoundland, one of which was like parsly and ate very well, either in soups or salads." La Pérouse, who landed in latitude 58° 37′, finds a French bill of fare, including
74 celery, chicory, sorrel, and almost all that exists in the meadows and mountains of France," besides several grains for forage. Every day and each meal the ship's kettle was filled with these supplies, and all ate them in soups, ragouts, and salads, much to the benefit of their health. Portlock reports at Port Etches, besides watercresses, "just above the beach, between the bay and the lake, a piece of wild wheat, about 200 yards long and 5 yards broad, growing at least 2 feet high, which with proper care might certainly be made a useful article of food;" at Cook's Inlet he reports "ginseng and snakeroot." Meares reports at Prince William Sound "snakeroot and ginseng, some of which the natives have always with them as a medicine." Billings finds at Kodiak "ginseng, wild onions, and the edible roots of Kamtchatka;" and then again in Prince William Sound he finds "plenty of ginseng and some snakeroot." Vancouver finds at Cape Phipps "wild vegetables in great abundance." Langsdorf adds to the list at Ounalaska "Siberian parsnip, or sweet plant." These, too, I quote precisely, and in the order of time.

Since the establishment of Europeans on this coast an attempt has been made to introduce the nutritious grains and vegetables known to the civilized world, but without very brilliant success. Against wheat and rye and against orchard fruits there are obstacles of climate, perhaps insuperable. All these require summer heat; but here the summer is comparatively cold. The northern limit of wheat is several degrees below the southern limit of these possessions, so that this friendly grain is out of the question. Rye flourishes further north, as do oats also. The supposed northern limit of these grains embraces Sitka and grazes the Aleutian Islands. But there are other climatic conditions which are wanting at least for rye. One of these is dry weather, which is required at the time of its bloom. Possibly the clearing of the forest may produce some modification of the weather. For the present barley grows better, and there is reason to believe that it may be cultivated successfully very far to the north. It has ripened at Kodiak. There are many garden vegetables which have become domesticated. Lütke reports that at Sitka potatoes flourish; so that all have enough. Langsdorf reports the same of Kodiak. There are also radishes, cabbages, cauliflowers, peas, and carrots—making a very respectable list. The same, perhaps, may be found at Ounalaska. On Norton Sound I hear of radishes, beets, and cabbages. Even as far north as Fort Youkon, on the parallel of 67°, potatoes, peas, turnips, and even barley have been grown; but the turnips were unfit for the table, being rotten at the heart. A recent resident reports that there are no fruit trees, and not even a raspberry bush, and that he lost all his potatoes during one season by a frost in the latter days of July; but do not forget that these potatoes were the wall-flowers of the Arctic Circle.

Thus it appears that the vegetable productions of the country are represented practically by trees. The forests which overshadow the coast from Sitka to Cook's Inlet are all that we can show under this head out of which a revenue can be derived, unless we add ginseng, which is so much prized by the Chinese, and perhaps also snakeroot. Other things may contribute to the scanty support of a household; but timber will in all probability be an article of commerce. It has been so already. Ships from the Sandwich Islands have come for it, and

there is reason to believe that this trade may be extended indefinitely, so that the Russian America may be on the Pacific like Maine on the Atlantic, and the lumbermen of Sitka may vie with their hardy brethren of the East.

Here a question occurs. These forests as described seem to afford all that can be desired. The trees are abundant, and they are perfect in size, not unlike—

> The tallest pine
> Hewn on Norwegian hills to be the mast
> Of some great Admiral.

But a doubt arises as to their commercial value. Here we have the inconsistent testimony of Liitke. According to him the pines and firs which he calls "magnificent" constitute an untried source of commercial wealth. Not only California, but other countries poor in trees, like Mexico, the Sandwich Islands, and even Chile, will need them. And yet he does not conceal an unfavourable judgment of the timber, which as seen in the houses of Sitka, suffering from constant moisture, did not seem to be durable. ("Voyage," Tom. 1, pp. 105, 151.) Sir Edward Belcher differs from the Russian Admiral, for he praises especially the timber of "the higher latitudes, either for spars or plank." ("Voyage," vol. i, p. 300.) Perhaps its durability may depend upon the climate where it is used, so that the timber of this region may be lasting enough when transported to another climate. In the rarity of trees on the islands and mainland of the Pacific the natural supply is in Russian America. One of the early navigators even imagined that China must look this way, and he expected that "the woods would yield a handsome revenue when the Russian commerce with China should be established." American commerce with China is established. Perhaps timber may become one of its staples.

A profitable commerce in timber has begun at Puget Sound. By the official Returns of 1866 it appears that it was exported to a long list of foreign countries and places, in which I find Victoria, Honolulu, Callao, Tahiti, Canton, Valparaiso, Adelaide, Hong Kong, Sydney, Monte Video, London, Melbourne, Shanghae, Peru, Coquimbo, Calcutta, Hilo, Cape Town, Cork, Guaymas, and Siam; and that in this commerce were employed no less than 18 ships, 30 barks, 4 brigs, 28 schooners, and 10 steamers. The value of the lumber and spars exported abroad was over half a million dollars, while more than four times that amount was shipped coastwise. But the coasts of Russian America are darker
75 with trees than those further south. The pines in which they abound do not flourish as low down as Puget Sound. Northward they are numerous and easily accessible.

In our day the flora of the coast has been explored with care. Kittlitz, who saw it as a naturalist, portrays it with the enthusiam of an early navigator; but he speaks with knowledge. He, too, dwells on the "surprising power and luxuriance" of the pine forests, describing them with critical skill. The trees which he identifies are the *Pinus Canadensis*, distinguished for its delicate foliage; the *Pinus mertensiana*, a new species, rival of the other in height; and *Pinus palustris*, growing in swampy declivities, and not attaining height. In the clearings or on the outskirts of thickets are shrubs, being chiefly a species of *Rubus*, with flowers of carmine and aromatic fruit. About and over all are mosses and lichens invigorated by the constant moisture, while colossal trees, undermined or uprooted, crowd the surface, reminding the scientific observer of the accumulations of the coal measures. Two different prints in the London reproduction of the work of Kittlitz present pictures of these vegetable productions grouped for beauty and

instruction. I refer to these, and also to the Essay of Hinds on the "Regions of Vegetation," the latter to be found at the end of the volumes containing Belcher's "Voyage."

In turning from the vegetable products of this region, it will not be out of place if I refer for one moment to its domestic animals, for these are necessarily associated with such products. Some time ago it was stated that cattle had not flourished at Sitka owing to the want of proper pasturage and the difficulty of making hay in a climate of such moisture. Hogs are more easily sustained, but feeding on fish, instead of vegetable products, their flesh acquires a fishy taste, which does not recommend it. Nor has there been greater success with poultry, for this becomes the prey of the crow, whose voracity here is absolutely fabulous. A Koloschian tribe traces its origin to this bird, which in this neighbourhood might be a fit progenitor. Not content with swooping upon hens and chickens, it descends upon hogs to nibble at their tails, and so successfully "that the hogs here are without tails," and then it scours the streets so well that it is called the scavenger of Sitka. But there are other places more favoured. The grass at Kodiak is well suited to cattle, and it is supposed that sheep would thrive there. The grass at Ounalaska is famous, and Cook thought the climate good for cattle, of which we have at least one illustration. Langsdorf reports that "a cow grazed there luxuriously for several years, and then was lost in the mountains." That grazing animal is a good witness. Perhaps also it is typical of the peaceful inhabitants.

MINERAL PRODUCTS.

V. In considering the *Mineral Products* I shall first ask attention to such indications as are afforded by the early navigators. They were not geologists. Indeed, geology was at that time unknown. They saw only what was exposed. And yet during the long interval that has elapsed not very much has been added to their conclusions. The existence of iron is hardly less uncertain now than then. The existence of copper is hardly more certain now than then. Gold, which is so often a dangerous *ignis fatuus*, did not appear to deceive them. But coal, which is much more desirable than gold, was reported by several, and once at least with reasonable certainty.

The boat that landed from Behring, when he discovered the coast, found among other things "a whetstone on which it appeared that copper knives had been sharpened." This was the first sign of that mineral wealth which already excites such an interest. At another point where Behring landed "one of the Americans had a knife hanging by his side, of which his people took notice on account of its unusual make." It has been supposed that this knife was of iron. Next came Cook, who, when in Prince William Sound, saw "copper and iron." In his judgment the iron came through the intervention of Indian tribes from Hudson Bay or the Settlements on the Canadian lakes, and his editor refers in a note to the knife seen by Behring as coming from the same quarter; but Cook thought that the copper was obtained near at home, as the natives, when engaged in barter, gave the idea "that having so much of this metal of their own, they wanted no more." Naturally enough, for they were not far from the Copper River. Maurelle, the French officer in the service of Spain, landed in sight of Mount St. Elias in 1779, and he reports Indians with arrow-heads of copper, "which made the Spaniards suspect mines of this metal there." La Pérouse, who was also in this neighbourhood, after mentioning that the naturalists

of the expedition allowed no rock or stone to escape observation, reports ochre, schist, mica, very pure quartz, granite, pyrites of copper, plumbago, and coal, and then adds that some things announce that the mountains contain mines of iron and copper. He reports further that the natives had daggers of iron and sometimes of red copper; that the latter metal was common enough with them, serving for ornaments and for the points of their arrows; and he then states the very question of Cook with regard to the way in which they acquired these metals. He insists that "the natives know how to forge iron and work copper." Spears and arrows "pointed with bone or iron," and also "an iron dagger" for each man, appear in Vancouver's account of the natives on the parallel of 54° 59′, just within the southern limits of Russian America. Lisiansky also saw at Sitka "a thin plate of virgin copper," found on Copper River, 3 feet in length, and at one end 20 inches in breadth, with figures painted on its sides, which had come from the possession of the natives. Meares reports "pure malleable lumps of copper in the possession of the natives," sometimes weighing as much
76 as a pound, also necklaces, all obtained in barter with other natives further north. Portlock, while in Cook's Inlet, in latitude 59 26′, at a place called Graham's Harbour, makes another discovery. Walking round the bay he saw "two veins of Kennel coal just above the beach, and with very little trouble several pieces were got out of the bank nearly as large as a man's hand." If the good captain did not report more than he saw, this would be most important, for from the time when the amusing biographer of Lord Keeper North described that clean flaky coal which he called "candle," because often used for its light, but which is generally called "Kennel," no coal has been more of a household favourite. He reports further that, "returning on board in the evening he tried some of the coal, and found it to burn clear and well." Add to these different reports the general testimony of Meares, who, when dwelling on the resources of this country, boldly includes "mines which are known to be between the latitudes of 40° and 60° north, and which may hereafter prove a most valuable source of commerce between America and China."

It is especially when we seek to estimate the mineral products that we feel the want of careful explorations. We know more of the roving aborigines than of these stationary citizens of the soil. We know more of the trees—a tree is conspicuous. A mineral is hidden in the earth to be found by chance or science. Thus far it seems as if chance only had ruled. The Russian Government handed over the country to a trading Company, whose exclusive interest was furs. The Company only followed its business when it looked to wild beasts with rich skins rather than to the soil. Its mines were above ground, and not below. There were also essential difficulties in the way of any explorations. The interior was practically inaccessible. The thick forest, saturated with rain and overgrown with wet mosses, presented obstacles which nothing but enlightened enterprise could overcome. Even at a short distance from the port of Sitka all effort had failed, and the inner recesses of the island, only 30 miles broad were never penetrated.

The late Professor Henry D. Rogers, in his admirable paper on the "Physical Features of America," being a part of his contribution to Keith Johnston's Atlas, full of knowledge and of fine generalization, says of this north-west belt of country that it is "little known in its topography to any but the roving Indians and the thinly-scattered fur-trappers." But there are certain general features which he proceeds to designate. According to him it belongs to what is known as the Ter-

tiary Period of geology, intervening between the Cretaceous Period and that now in progress, but including also granite, gneiss, and ancient metamorphic rocks. It is not known if the true coal measures prevail in any part, although there is reason to believe that they may exist on the coast of the Arctic Ocean between Cape Lisburne and Point Barrow.

Beginning at the south, we have Sitka and its associate islands, composed chiefly of volcanic rocks, with limestone near. Little is known even of the coast between Sitka and Mount St. Elias, which, itself a volcano, is the beginning of a volcanic region occupying the Peninsula of Alaska and the Aleutian Islands, and having no less than thirty volcanoes, some extinct, but others still active. Most of the rocks here are volcanic, and the only fossiliferous beds are of the Tertiary Period. North of Alaska and near the mouth of the Kwichpak, the coast seems to be volcanic or metamorphic, and probably tertiary, with a vein of lignite near the head of Norton's Sound. At the head of Kotzebue's Sound the cliffs abound in the bones of elephants and other extinct mammals, together with those of the musk ox and animals now living in the same latitude. From Kotzebue's Sound northward the coast has a volcanic character. Then at Cape Thomson it is called sub-carboniferous, followed by rocks of the carboniferous age, being lime-stones, shales, and sand-stones, which extend from Cape Lisburne far round to Point Barrow. At Cape Beaufort, very near the 70th parallel of latitude, and north of the Arctic Circle, on a high ridge a quarter of a mile from the beach, is a seam of coal, which appears to be of the true coal measures.

From this general outline, which leaves much in uncertainty, I come now to what is more important.

It is not entirely certain that *iron* has been found in this region, although frequently reported. The evidence points to the south, and also to the north. Near Sitka it was reported by the Russian engineer Doroschin, although it does not appear that anything has been done to verify his report. A visitor there as late as last year saw excellent iron, reported to be from a bed in the neighbourhood, which was said to be inexhaustible, and with abundant wood for its reduction. Then again on Kotzebue's Sound specimens have been collected. At 66° 35′ Kotzebue found a false return in his calculations, which he attributes to the disturbing influence of "iron." A resident on the Youkon thinks that there is iron in that neighbourhood

Silver also has been reported at Sitka by the same Russian engineer who reported iron there; and, like the iron, in "sufficient quantity to pay for the working."

Lead was reported by the Russian explorer, Lieutenant Zagoyskin, on the lower part of the Kwichpak, but it is not known to what extent it exists.

Copper is found on the banks of the Copper River, called by the natives Mjednaja, meaning copper, and of its affluent, the Tshitachitna, in masses sometimes as large as 40 lbs. Of this there can be little doubt. It is mentioned by Golowin in the "Archiv" of Erman as late as 1863. It was undoubtedly from this neighbourhood that the copper was obtained which arrested the attention of the early navigators. Traces of copper are also found in other places on the coast, also in the mountains near the Youkon, where the Indians use it for arrow-heads.

Coal seems to exist all along the coast, according to Golowin
77 "everywhere in greater or less abundance." Traces of it are reported on the islands of the Sitkan Archipelago, and this is extremely probable, for it has been worked successfully on Van-

couver's Island below. It is also found on the Kenaian Peninsula, Alaska, the Island of Unga, belonging to the Shumagin group, Ounalaska, and far to the north at Beaufort. At the latter place it is "slaty, burning with a pure flame and rapid consumption," and it is supposed that there are extensive beds in the neighbourhood better in quality. For an account of this coal I refer to the scientific illustrations of Beechey's "Voyage." The natives also report coal in the interior on the Kwichpak. The coal of Ounalaska, and probably of Alaska, is tertiary, and not adapted for steamers. With regard to that of Unga scientific authorities are divided. That of the Kenaian Peninsula is the best and the most extensive. It is found on the eastern side of Cook's Inlet, half-way between Cape Anchor and the Russian Settlement of St. Nicholas, in veins three-quarters of a yard or more in thickness, and ranging in quality from mere carboniferous wood to anthracite. According to one authority these coal veins extend and spread themselves far in the interior. It appears that this coal has been more than once sent to California for trial, and that it was there pronounced a good article. Since then it has been mined by the Company, not only for their own uses, but also for export to California. In making these statements I rely particularly upon Golowin in the "Archiv" of Erman, and also upon the elaborate work of Grewingk, in the "Transactions of the Mineralogical Society of Petersburgh" for 1848 and 1849 (p. 112), where will be found a special map of the Kenaian Peninsula.

Gold is less important than coal, but its discovery produces more excitement. The report of gold in any quarter stimulates the emigrant or the adventurer who hopes to obtain riches swiftly. Nor is this distant region without such experience. Only a few years ago the British Colony of Victoria was aroused by a rumour of gold in the mountains of the Stikine River, not far in the interior from Sitka. At once there was a race that way, and the solitudes of this river were penetrated by hunters in quest of the glittering ore. Discomfiture ensued. Gold had been found, but not in any sufficient quantities reasonably accessible. Nature for the present set up obstacles. But failure in one place will be no discouragement in another, especially as there is reason to believe that the mountains here contain a continuation of those auriferous deposits which have become so famous further south. The Sierra Nevada chain of California reaches here.

Traces of gold have been observed at other points. One report places a deposit not far from Sitka. The same writer, who reports iron there, also reports that during the last year he saw a piece of gold as large as a marble, which was shown by an Indian. But the Russian engineer, Doroschin, furnishes testimony more precise. He reports gold in at least three different localities, each of considerable extent. The first is the mountain range on the north of Cook's Inlet and extending into Alaska, consisting principally of clay slate with permeating veins of diorite, the latter being known as a gold-bearing rock. He observed this in the summer of 1851. About the same time certain Indians from the Bay of Jakutat, not far from Mount St. Elias, brought him specimens of diorite found in their neighbourhood, making, therefore, a second deposit. In the summer of 1855 the same engineer found gold on the southern side of Cook's Inlet, in the mountains of the Kenay Peninsula. Satisfying himself, first, that the bank occupied by the redoubt of St. Nicholas, at the mouth of the Kaknu River, is gold-bearing, he was induced to follow the development of diorite in the upper valley of the river, and as he ascended found a gold-bearing alluvion gradually increas-

ing, with scales of gold becoming coarser and coarser, instead of being scarcely visible as at first.

It does not appear that the discoveries on Cook's Inlet were pursued, but it is reported that the Hudson Bay Company, holding the country about the Bay of Jakutat under a lease from the Russian Company, have found the diorite in that neighbourhood valuable. This incident has given rise to a recent controversy. Russian journals attacked the engineer for remissness in not exploring the Jakutat country. He has defended himself by setting out what he actually did in the way of discovery, and the essential difficulty at the time in doing more; all which will be found in a number just received of the work to which I have so often referred, the "Archiv von Russland," by Erman, for 1866, vol. xxv, p. 229.

Thus much for the mineral resources of this new-found country as they have been recognized at a few points on the extensive coast, leaving the vast unknown interior without a word.

FURS.

VI. I pass now to *Furs*, which at times have vied with minerals in value, although the supply is more limited and less permanent. Trappers are "miners" of the forest, seeking furs as others seek gold. The parallel continues also in the greed and oppression unhappily incident to the pursuit. A Russian officer who was one of the early visitors to this coast remarks that to his mind the only prospect of relief for the suffering natives "consists in the total extirpation of the animals of the chase," which he thought, from the daily havoc, must take place in a very few years. This was at the close of the last century. The trade still continues, though essentially diminished, an important branch of commerce.

Early in this commerce desirable furs were obtained in barter for a trifle, and when something of value was exchanged it was much out of proportion to the furs. This has been the case generally in dealing with the natives, until their eyes have been slowly opened.

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In Kamtchatka, at the beginning of the last century, half-a-dozen sables were obtained in exchange for a knife, and a dozen for a hatchet; and the Kamchatkadales wondered that their Cossack conquerors were willing to pay so largely for what seemed worth so little. Similar incidents on the north-west coast are reported by the early navigators. Cook mentions that in exchange for "beads" the Indians at Prince William Sound "gave whatever they had, even their fine sea-otter skins," which they prized no more than other skins until it appeared how much they were prized by their visitors. Where there was no competition prices rose slowly, and many years after Cook, the Russians at Kodiak, "in return for trinkets and tobacco," received twelve sea-otter skins and fox-skins of different kinds to the number of near 600.

These instances will show in a general way the spirit of this trade even to our own day.

On the coast, and especially in the neighbourhood of the factories, the difference in the value of furs is recognized, and a proportionate price is obtained, which Sir Edward Belcher found in 1837 to be "for a moderately good sea-otter skin from six to seven blankets, increasing to thirteen for the best, together with sundry knickknacks." But in the interior it is otherwise. A recent resident in the region of the Youkon assures me that he has seen skins worth several hundred dollars bartered for goods worth only 50 cents.

Besides whalers and casual ships with which the Esquimaux are in the habit of dealing, the commerce in furs on both sides of the continent north of the United States has for a long time been in the hands of two Corporations, being the Hudson Bay Company, with its Directors in London, and the Russian-American Company, with its Directors in St. Petersburgh. The former is much the older of the two, and has been the most flourishing. Its original members were none other than Prince Rupert, the Duke of Albemarle, Earl Craven, Lord Ashley, and other eminent associates, who received a Charter from Charles II in 1670 to prosecute a search after a new passage to the South Sea, and to establish a trade in furs, minerals, and other considerable commodities in all those seas and in the British possessions north and west of Canada, with powers of government, the whole constituting a colossal monopoly, which stretched from Labrador and Baffin Bay to an undefined west. At present this great Corporation is known only as a Fur Company, to which all its powers are tributary. For some time its profits have been so considerable that it has been deemed advisable to hide them by nominal additions to the stock. With the extinction of the St. Petersburgh Corporation, under the present Treaty, the London Corporation will remain the only existing Fur Company on the continent, but necessarily restrained in its operation to British territory. It remains to be seen into whose hands the commerce on the Pacific side will fall now that this whole region will be open to the unchecked enterprise of our citizens.

This remarkable commerce began before the organization of the Company. Its profits may be inferred from a voyage in 1772, described by Coxe, between Kamtchatka and the Aleutians. The tenth part of the skins being handed to the custom-house, the remainder was distributed in fifty-five shares, containing each twenty sea-otters, sixteen black and brown foxes, ten red foxes, three sea-otter tails, and these shares were sold on the spot at from 800 to 1,000 roubles each, so that the whole lading brought about 50,000 roubles. The cost of these may be inferred from the articles given in exchange. A Russian outfit, of which I find a contemporary record, was, among other things, "7 cwt. of tobacco, 1 cwt. of glass beads, perhaps a dozen spare hatchets, and a few superfluous knives of very bad quality, an immense number of traps for foxes, a few hams, a little rancid butter." With such imports against such exports the profits must have been considerable.

From Langsdorf we have a general inventory of the furs at the beginning of the century in the principal magazine of the Russian Company on the Island of Kodiak, collected on the islands, the Peninsula of Alaska, Cook's Inlet, Prince William Sound, and the continent generally. Here were "a great variety of the rarest kinds of fox-skins," black, blackish, reddish, silver grey, and stone fox, the latter probably a species of the Arctic; brown and red bears, "the skins of which are of great value," and also "the valuable black bear;" the zizel marmot and the common marmot, the glutton; the lynx, chiefly of whitish grey; the reindeer; the beaver; the hairy hedgehog; the wool of a wild American sheep, whitish, fine, and very long, but he could never obtain sight of the animal that produced this wool; also "sea-otters, once the principal source of wealth to the Company, now nearly extirpated, a few hundreds only being annually collected." The same furs were reported by Cook as found on this coast in his day, including even the wild sheep. They all continue to be found, except that I hear nothing of any wild sheep save at a Sitkan dinner.

There has been much exaggeration with regard to the profits of the Russian Corporation. An English writer of authority calls them "immense," and adds that formerly they were much greater. I refer to the paper of Mr. Petermann, read before the Geographical Society of London in 1852 (Journal, vol. xxii, p. 120). The number of skins reported at times is prodigious, although this fails to reveal precisely the profits. For instance, Pribylow collected within two years on the islands north of Alaska which bear his name the skins of 2,000 sea-otter, 6,000 dark ice foxes, 40,000 sea-bears, or ursine seals, together with 1,000 pouds of walrus ivory (the poud is a Russian weight of 36 lbs.). Lütke mentions that in 1803 no less than 800,000 skins of the ursine seal were accumulated in the factory at Ounalaska, of which 700,000 were thrown into the sea, partly because they were badly prepared, and partly in order to keep up the price, thus imitating
79 the Dutch, who for the same reason burnt their spices. Another estimate masses the collection for a series of years:

From 1787 to 1817, for only a part of which time the Company existed, the Ounalaska district yielded upwards of 2,500,000 seal-skins; and from 1817 to 1838, during all which time the Company was in power, the same district yielded 579,000 seal-skins. Assuming what is improbable, that these skins were sold at 25 roubles each, some calculating genius has cyphered out the sum-total of proceeds at more than 85,000,000 roubles; or, calling the rouble 75 cents, a sum-total of more than 63,000,000 dollars. Clearly the latter years can show no approximation to any such doubtful result.

Descending from these lofty figures, which, if not exaggerations, are at least generalities, and relate partly to the earlier periods, before the time of the Company, we shall have a better idea of the commerce if we look at authentic Reports for special periods of time.

Admiral von Wrangel, who was for so long Governor, must have been well informed. According to statements in his work, adopted also by Wappäus in his "Geographie," the Company from 1826 to 1833, a period of seven years, exported the skins of the following animals:

Nine thousand eight hundred and fifty-three sea-otters, with 8,751 sea-otter tails, 40,000 river beavers, 6,242 river- or land-otters, 5,243 black foxes, 7,759 black-bellied foxes, 1,633 red foxes, 24,000 Polar foxes, 1,093 lynxes, 559 wolverines, 2,976 sables, 4,335 swamp-otters, 69 wolves, 1,261 bears, 505 musk rats, 132,160 seals, 830 pouds of whalebone, 1,490 pouds of walrus ivory, and 7,122 sacks of castoreum. What was their value does not appear.

Sir George Simpson, the Governor-in-chief of the Hudson Bay Company, who was at Sitka in 1841, represents the returns of the Company for that year as follows:

Ten thousand fur-seals, 1,000 sea-otters, 2,500 land-otters, and 20,000 walrus teeth, without including foxes and martens.

There is still one other Report for the year 1852, as follows:

One thousand two hundred and thirty-one sea-otters, 129 young sea-otters, 2,948 common otters, 14,486 fur-seals, 107 bears, 13,300 beavers, 2 wolves, 458 sables, 243 lynxes, 163 mole-skins, 1,504 bags of castoreum, 684 black foxes, 1,590 cross foxes, 5,174 red foxes, 2,359 blue Arctic foxes, 355 white Arctic foxes, and also 31 foxes called white, perhaps albinos.

Besides these Reports for special years, I am enabled to present from the Russian Tables of Captain Golowin another, covering the period from 1842 to 1860, inclusive, being as follows:

Twenty-five thousand six hundred and two sea otters, 63,826 "otters," probably *river-otters, 161,042* beavers, 73,944 foxes, 55,540 Arctic foxes,

2,283 bears, 6,445 lynxes, 26,384 sables, 19,076 musk rats, 2,536 ursine seals, 338,604 marsh-otters, 712 "pairs of hare," 451 martens, 104 wolves, 46,274 castoreums, 7,309 beavers' tails.

Here is an inexplicable absence of seal-skins. On the other hand, sables, which belong to Asia and not to America, are mentioned. The list is Russian, and perhaps embraces furs from the Asiatic islands of the Company.

From a competent source I learn that the value of skins at Sitka during the last year was substantially as follows:

Sea-otter, 50 dollars; marten, 4 dollars; beaver, 2 dol. 50 c.; bear, 4 dol. 50 c.; black fox, 50 dollars; silver fox, 40 dollars; cross fox, 25 dollars; red fox, 2 dollars.

A recent price current in New York gives the prices there, in currency, as follows:

Silver fox, 10 to 50 dollars; cross fox, 3 to 5 dollars; red fox, 1 dollar to 1 dol. 50 c.; otter, 3 to 6 dollars; mink, 3 to 6 dollars; beaver, 1 to 4 dollars; musk rat, 20 to 50 cents; lynx, 2 to 4 dollars; black bear, 6 to 12 dollars; dark marten, 5 to 20 dollars.

These New York prices vary from those of Sitka. The latter will be the better guide to a comprehension of the proceeds at Sitka, which, of course, must be subject to deduction for the expenses of the Company. Of the latter I say nothing now, as I have considered them in speaking of the existing Government.

The skins, it appears, are obtained in three different ways: first through the hunters employed by the Company; secondly, in payment of taxes imposed by the Company; and thirdly, by barter or purchase from independent natives. But with all these sources it is certain that the Russian Company has enjoyed no success comparable to that of its British rival; and still more, there is reason to believe that latterly its profits have not been large.

Amid all the concealment or obscurity which prevails with regard to the revenues of the Company, it is easy to see that for some time there must be a large amount of valuable furs on this coast. The bountiful solitudes of the forest and of the adjoining waters have not yet been exhausted; nor will they be until civilization has supplied substitutes. Such, indeed, is a part of that humane law of compensation which contributes so much to the general harmony. For the present there will be trappers on the land, who will turn aside only a little from its prizes there to obtain from the sea its otter, seal, and walrus. It cannot be irrelevant, and may not be without interest, if I call your attention briefly to those fur-bearing animals which are about to be brought within the sphere of Republican Government. If we cannot find their exact census we may at least learn something of their character and value.

The comparative poverty of vegetation in the more northern parts of the continent contrasts with the abundance of animal life, especially if we embrace those tenants of the sea who seek the land for rest.

80 These northern parallels are hardly less productive than the Tropics. The lion, the elephant, and the hippopotamus find their counterpart in the bear, the walrus, and the seal, without including the sables and the foxes. Here again Nature by an unerring law adapts the animal to the climate, and in providing him with needful protection creates also a needful supply for the protection of man; and this is the secret of rich furs. Under the sun of the Tropics such provision is as little needed by man as by beast, and therefore Nature, *which does* nothing inconsistent with a wise economy, reserves it for *other places.*

Among the furs most abundant in this commerce are those of the *fox*, in its different species and under its different names. Its numbers were noticed very early, and gave the name to the eastern group of the Aleutians, which were called Lyssie Ostrowa, or Fox Islands. Some of its furs are among the very precious. The most plentiful is the red, or as it is sometimes called American; but this fur is not highly prized. Then comes the Arctic, of little value, and of different colours, sometimes blue, and in full winter dress pure white, whose circumpolar home is indicated by his name. The cross fox is less known, but much more sought from the fineness of its fur and its colour. Its name is derived from dark crúciform stripes, extending from the head to the back and at right angles over the shoulders. It is now recognized to be a variety of the red, from which it differs more in commercial value than in general character. The black fox, which is sometimes entirely of shining black with silver white at the tip of the tail, is called also the silver fox, when the black hairs of the body are tipped with white. They are of the same name in science, sometimes called *Argentatus*, although there seem to be two different names, if not different values, in commerce. This variety is more rare than the cross fox. Not more than four or five are taken during a season at any one post in the fur countries, although the hunters use every art for this purpose. The temptation is great, as we are told that "its fur fetches six times the price of any other fur produced in North America." Sir John Richardson, who is the authority for this statement, forgot the sea-otter, of which he seems to have known little. Without doubt the black fox is admired for its rarity and beauty. La Hontan, the French Commander in Canada under Louis XIV, speaks of its fur in his time as worth its weight in gold.

Among the animals whose furs are less regarded are the *wolverine*, known in science as *Gulo* or *Glutton*, and called by Buffon the quadruped vulture, with a dark-brown fur, which becomes black in winter, and resembles that of the bear, but is not so long nor of so much value. There is also the *lynx*, belonging to the feline race, living north of the great lakes and eastward of the Rocky Mountains, with a fur moderately prized in commerce. There is also the *musk rat*, which is abundant in Russian America, as it is common on this continent, whose fur enters largely into the cheaper peltries of the United States in so many different ways, and with such various artificial colours, that the animal would not know his own skin.

Among inferior furs I may include that very respectable animal, the *black bear*, reported by Cook "in great numbers and of a shiny black colour." The grizzly bear is less frequent and is inferior in quality of fur to all the varieties of the bear. The brown bear is supposed to be a variety of the black bear. The Polar bear, which at times is a formidable animal, leaving a foot-print in the snow 9 inches long, was once said not to make an appearance west of the Mackenzie River, but he has been latterly found on Behring Straits, so that he, too, is included among our new population. The black bear, in himself a whole population, inhabits every wooded district from the Atlantic to the Pacific, and from Carolina to the ice of the Arctic, becoming more numerous inland than on the coast. Langsdorf early remarked that he did not appear on the Aleutians, but on the continent, near Cook's Inlet and Prince William Sound, which are well wooded. He has been found even on the Isthmus of Panamá. Next to the dog he is the most cosmopolitan and perhaps the most intelligent of animals, and among those of the forest he is the most known, even to the nursery. His showy fur once

enjoyed great vogue in hammercloths and muffs, and it is still used in military caps and pistol holsters; so that he is sometimes called the army bear. Latterly the fur has fallen in value. Once it brought in London from 20 to 40 guineas. It will now hardly bring more than that same number of shillings.

The *beaver*, amphibious and intelligent, has a considerable place in commerce, and also a notoriety of its own as the familiar synonym for the common covering of a man's head, and here the animal becomes historic. By Royal Proclamation in 1638 Charles I of England prohibited the use of any material in the manufacture of hats "except beaver stuff or beaver wool." This Proclamation was the death-warrant of beavers innumerable, sacrificed to the demands of the trade. Wherever they existed over a wide extent of country, in the shelter of forests or in lodges built by their extraordinary instinct, they were pursued and arrested in their busy work. The importation of their skins into Europe during the last century was enormous, and it continued until one year it is said to have reached the unaccountable number of 600,000. I give these figures as I find them. Latterly other materials have been obtained for hats, so that this fur has become less valuable. But the animal is still hunted. A medicine supplied by him, and known as the *Castoreum*, has a fixed place in the *Materia Medica*.

The *marten* is perhaps the most popular of all the fur-bearing animals that belong to our new possessions. An inhabitant of the whole wooded region of the continent, he finds a favorite home in the cold forests of the Youkon, where he needs his beautiful fur, which is not much inferior to that of his near relative, the far-famed Russian sable. In the trade of the Hudson Bay Company the marten occupies the largest
81 place, his skins for a single district amounting to more than 50,000 annually and being sometimes sold as sable. The ermine, which is of the same weasel family, is of little value except for its captivating name, although its fur finds its way to the English market in enormous quantities. The mink, also of the same general family, was once little regarded, but now, by a freak of fashion in our country, this animal has ascended in value above the beaver, and almost to the level of the marten. His fur is plentiful on the Youkon and along the coast. Specimens in the Museum of the Smithsonian Institution attest its occurrence at Sitka.

The *seal*, amphibious, polygamous, and intelligent as the beaver, has always supplied the largest multitude of furs to the Russian Company. The early navigators describe its appearance and numbers. Cook encountered them constantly. Excellent swimmers, ready divers, they seek rocks and recesses for repose, where, though watchful and never sleeping long without moving, they become the prey of the hunter. Early in the century there was a wasteful destruction of them. Young and old, male and female, were indiscriminately knocked on the head for the sake of their skins. Sir George Simpson, who saw this improvidence with an experienced eye, says that it was hurtful in two ways: first, the race was almost exterminated; and secondly, the market was glutted sometimes with as many as 200,000 a year, so that prices did not pay the expense of carriage. The Russians were led to adopt the plan of the Hudson Bay Company, killing only a limited number of males who have attained their full growth, which can be done easily, from the known and systematic habits of the animal. Under this economy seals have multiplied again, vastly increasing the supply.

Besides the common seal there are various species, differing in *appearance*, so as to justify different names, and yet all with a family

character, including the sea-leopard, so named from his spots; the elephant seal, from his tusks and proboscis; the sea-lion, with teeth, mane, and a think cylindrical body. These are of little value, although their skins are occasionally employed. The skin of the elephant seal is strong, so as to justify its use in the harness of horses. There is also the sea-bear, or *ursine seal*, very numerous in these waters, whose skin, especially if young, is prized for clothing. Steller speaks with grateful remembrance of a garment which he made from one while on the desert island after the shipwreck of Behring.

Associated with the seal, and belonging to the same family, is the *walrus*, called by the British the sea-horse, the morse, or the sea-cow, and by the French *bête à la grande dent*. His two tusks, rather than his skin, are the prize of the hunter. Unlike the rest of the seal family, he is monogamous and not polygamous. Cook vividly describes an immense herd asleep on the ice, with one of their number on guard, and when aroused roaring and baying aloud, while they huddled and tumbled together like swine. At times their multitude is so great that before being aroused several hundreds are slaughtered, as game in a park. Their hide is excellent for carriage braces, and is useful about ship. But it is exclusively for their ivory that these hecatombs are sacrificed. A single tooth weighs sometimes several pounds. Twenty thousand teeth reported as an annual harvest of the Russian Company must cost the lives of 10,000 walruses. The ivory compares with that of the elephant, and is for some purposes superior. Long ago, in the days of Saxon history, a Norwegian at the Court of Alfred exhibited to the King "teeth of price and excellency" from what he called a horse whale. Unquestionably these were teeth of walrus.

I mention the *sea-otter* last; but in beauty and value it is the first. In these respects it far surpasses the river or land otter, which, though beautiful and valuable, must yield the palm. It has also more the manners of the seal, with its fondness for sea washed rocks, and with a maternal affection almost human. The sea-otter seems to belong exclusively to the North Pacific. Its haunts once extended as far as the Bay of San Francisco; but long ago it ceased to appear in that southern region. Cook saw it at Nootka Sound. Vancouver reports it at Chatham Strait "in immense numbers, so that it was easily in the power of the natives to procure as many as they choose to be at the trouble of taking." But these navigators, could they revisit this coast, would not find it in these places now. Its present zone is between the parallels of 60° and 65° north latitude on the American and Asiatic coasts, so that its range is very limited. Evidently it was Cook who first revealed the sea-otter to Englishmen. In the Table of Contents of his third voyage are the words, "Description of the Sea-Otter;" and in the pages that follow there is a minute account of this animal, and especially of its incomparable fur, which is pronounced "certainly softer and finer than that of any other we know of." Not content with description, the famous navigator adds in remarkable words, "therefore, the discovery of this part of North America, where so valuable an article of commerce may be met with, cannot be a matter of indifference." These words stimulated the commercial enterprise of that day. Other witnesses followed. Meares, describing his voyage to this coast, placed this fur high above all other furs: "the finest in the world, and of exceeding beauty;" and La Pérouse made it known in France as "peltry the most precious and common in those seas." Shortly afterwards all existing information with regard to it was elaborately set forth in the "Historical Introduction to the Voyages of Marchand," published at Paris under the auspices of the Institute.

The sea-otter was known originally to the Russians in Kamtchatka, where it was called the sea-beaver; but the discoveries of Behring constitute an epoch in the commerce. His shipwrecked crew, compelled to winter on the desert island which now bears his name, found this animal in flocks, ignorant of men and innocent as sheep, so that
82 they were slaughtered without resistance to the number of more than 800. Their value became known. Fabulous prices were paid by the Chinese, sometimes, according to Coxe, as high as 140 roubles. At such a price a single sea-otter was more than an ounce of gold, and a flock was a gold mine. The pursuit of gold was renewed. It was the sea-otter that tempted the navigator, and subsequent discovery was under the incentive of obtaining the precious fur. Müller, calling him a beaver, says, in his "History of Russian Discovery," "the catching of beavers enticed many people to go to these parts, and they never returned without great quantities, which always produced large prices." All that could be obtained were sent to China, which was the objective point commercially for this whole coast. The trade became a fury. Wherever the animal with exquisite purple-black fur appeared he was killed; not always without effort, for he had learned something of his huntsman, and was now coy and watchful, so that his pursuit was often an effort, but his capture was always a triumph. The natives, who had been accustomed to his furs as clothing, surrendered them. Sometimes a few beads were their only pay. All the navigators speak of the unequal barter. "Any sort of beads" were enough, according to Cook. The story is best told by Meares, who says "such as were dressed in furs instantly stripped themselves, and in return for a moderate quantity of spike nails we received sixty-five sea-otter skins." Vancouver describes the "humble fashion" of the natives in poor skins as a substitute for the beautiful furs appropriated by their "Russian friends." The picture is completed by the Russian navigator when he confesses that "after the Russians had any intercourse with them" the natives ceased to wear sea-otter skins. In the growing rage the sea-otter nearly disappeared. Langsdorf reports them as "nearly extirpated, since the high prices for them induce the Russians for a momentary advantage to kill all they meet with, both old and young. Nor can they see that by such a procedure they must soon be deprived of the trade entirely." This was in 1804. Since then the indiscriminate massacre has been arrested.

Meanwhile, our countrymen entered into this commerce, so that Russians, Englishmen, and Americans were all engaged in slaughtering sea-otters and selling their furs to the Chinese until the market of Canton was glutted. Lisiansky, on his arrival there, found "immense quantities in American ships." By-and-by the commerce was engrossed by the Russians and English. And now it passes into the hands of the United States with all the other prerogatives belonging to this territory.

FISHERIES.

VII. I come now to the *Fisheries*, the last head of this inquiry, and not inferior to any other in importance; perhaps the most important of all. What even are sea-otter skins by the side of that product of the sea, incalculable in amount, which contributes to the sustenance of the human family?

Here, as elsewhere, in the endeavour to estimate the resources of this region, there is vagueness and uncertainty. Information at least is *wanting;* and yet we are not entirely ignorant. Nothing is clearer than

that fish in great abundance are taken everywhere on the coast, around the islands, in the bays, and throughout the adjacent seas. On this head the evidence is constant and complete. Here are oysters, clams, crabs, and a dainty little fish of the herring tribe called the "oolachan," contributing to the luxury of the table, and so rich in its oily nature that the natives are said to use it sometimes as a "candle." Besides these, which I name now only to put aside, are those great staples of commerce and mainstays of daily subsistence, the salmon, the herring, the halibut, the cod, and, behind all, the whale. This short list is enough, for it offers a constant feast, with the whale at hand for light. Here is the best that the sea affords for the poor or the rich; for daily use or for the fast days of the Church. Here also is a sure support at least to the inhabitants of the coast.

But in order to determine the value of this supply we must go further and ascertain if these various tribes of fish, reputed to be in such numbers, are found under such conditions and in such places as to constitute a permanent and profitable fishery. This is the practical question, which is still undecided. It will not be enough to show that the whole coast may be subsisted by its fish. It should be shown further that the fish of this coast can be made to subsist other places, so as to become a valuable article of commerce. And here uncertainty begins. The proper conditions of an extensive fishery are not yet understood. It is known that certain fisheries exist in certain waters and on certain soundings, but the spaces of ocean are obscure, even to the penetrating eye of science. Fishing banks known for ages are still in many respects a mystery, which is increased where the fishery is recent or only coastwise. There are other banks, which fail from local incidents. Thus very lately a cod fishery was commenced on Rochdale Bank, 65 miles northwest of the Hebrides; but the deep rolling of the Atlantic and the intolerable weather compelled its abandonment.

Before proceeding to consider the capacity of this region for an extensive fishery it is important to know such evidence as exists with regard to the supply, and here again we must resort to the early navigators and visitors. Their evidence, reinforced by modern reports, is an essential element, even if it does not entirely determine the question.

Down to the arrival of Europeans on this coast the natives lived on fish. This had been there constant food, with small additions from the wild vegetation of the country. In summer it was fish freshly caught; in winter it was fish dried or preserved. At the first landing on the discovery Steller found in the deserted cellar which he visited
83 "store of *red salmon*," and the sailors brought away "*smoked fishes* that appeared like carp, and tasted very well." This is the earliest notice of fish on this coast, which are thus directly associated with its discovery. The next of interest which appears is the account of a Russian navigator in 1765, who reports on the Fox Islands, and especially Ounalaska, "*cod*, perch, pilchards, smelts." Thus early cod appears.

If we repair to "Cook's Voyages" we shall find the accustomed instruction, and here I shall quote with all possible brevity. At Nootka Sound he reports fish "more plentiful than birds," of which the principal sorts in great numbers were "the common *herring*, but scarcely exceeding 7 inches in length, and a smaller sort, the same with the anchovy or sardine," and now and then "a *small brownish cod*, spotted with white." Then, again, he reports at the same place "*herrings* and sardines and *small cod*," the former "not only eaten fresh, but likewise

dried and smoked." In Prince William Sound he reports that "the only fish got were some torsk and *halibut*, chiefly brought by the natives to sell." Near Kodiak he reports that, "having three hours' calm, his people caught upward of *a hundred halibuts*, some of which weighed 100 lbs., and none less than 20 lbs.," and he adds, naturally enough, "a very seasonable refreshment." In Bristol Bay, on the northern side of Alaska, he reports "tolerable success in fishing, *catching cod*, and now and then a few flat-fish." In Norton Sound, still further north, he reports that in exchange for four knives made from an old iron hoop he obtained of the natives "near 400 lbs. weight of fish caught on this or the preceding day; some *trout*, and the rest in size and taste between the mullet and a *herring*." On his return southward, stopping at Ounalaska, he reports "plenty of fish, at first mostly *salmon, both fresh and dried;* some of the salmon in high perfection; also salmon, trout, and once a *halibut that weighed 254 lbs.;*" and in describing the habits of the islanders he reports that "they *dry large quantities* of fish in summer, which they lay up in small huts for winter's use." Such is the testimony of Captain Cook.

No experience on the coast is more instructive than that of Portlock, and from his Report I compile a succinct diary. July 20, 1786, at Graham's Harbour, Cook's Inlet: "the Russian Chief brought me as a present a quantity of *fine salmon* sufficient to serve both ships for one day." July 21: "In several hauls caught about *thirty salmon* and a few flat-fish;" also, further, "the Russian Settlement had on one side a small lake of fresh water, on which plenty of *fine salmon* were caught." July 22: "The boat returned deeply loaded with *fine salmon*." July 28, latitude 60° 9′: "Two small canoes came off; they had nothing to barter but a few *dried salmon*." July 30: "Plenty of *excellent fresh salmon* obtained for beads and buttons." August 3: "*Plenty of fine salmon*." August 9, at Cook's Inlet: "The greatest *abundance of fine salmon*." August 13: "Hereabouts would be most desirable situation for carrying on a *whale fishery*, the whales being on the coast and close in shore in vast numbers, and there being convenient and excellent harbours quite handy for the business." After these entries the English navigator left the coast for the Sandwich Islands.

Returning during the next year, Portlock continued to record his observations, which I abstract in brief. May 21, 1787, Port Etches, latitude 60° 21′: "The harbour affords very fine crabs and muscles." June 4: "A few Indians came alongside, bringing some *halibut and cod*." June 20: "Plenty of flounders, crabs also plenty and fine. Several fishing alongside for flounders caught *cod and halibut*." June 22: "Sent the canoe out some distance in the bay, and it soon returned with a *fine load of cod and halibut*. This induced me to send her out frequently with a fishing party, and they caught considerably more than was sufficient for daily consumption." June 30: "In hauling the seine caught a large quantity of *herrings and some salmon;* the herrings, though small, were very good, and *two hogsheads of them were salted for sea store*." July 7: "We daily caught *large quantities of salmon*, but, the unsettled state of the weather not permitting us to cure them on board, sent the boatswain with a party on shore to build a house to smoke them in." July 11: "The seine was frequently hauled, and *not less than 2,000 salmon caught at each haul*. The weather, however, preventing us from curing them as well as could have been wished, we kept only a sufficient quantity for present use and let the rest escape. The salmon were now in such numbers along the shores that any quantity whatever might be caught with the greatest ease." All this testimony of the

English navigator is singularly explicit, while it is in complete harmony with that of the Russian visitors and of Cook, who preceded.

The Report of Meares is similar, although less minute. Speaking of the natives generally, he says "they live entirely upon fish, but of all others they prefer the whale." Then, again, going into more detail, he says, "vast quantities of fish are to be found, both on the coast and in the sounds or harbours. Among these there are the *halibut*, *herring*, sardine, silver beam, salmon, trout, *cod*, all of which we have seen in the possession of the natives, or have been caught by ourselves." The *herrings* he describes as taken in such numbers "that a whole village has not been able to cleanse them." At Nootka the *salmon* was of a very delicate flavour, and "the *cod* taken by the natives of the best quality." French testimony is not wanting, although it is less precise. The early navigator, who was on the coast in 1779, remarks that "the fish most abundant is the *salmon*." La Pérouse, who was there in 1787, mentions a large fish weighing sometimes more than 100 lbs., and several other fish, but he preferred "the *salmon and trout*, which the Indians sold in larger numbers than could be consumed." A similar report was made by Marchant, the other French navigator, who finds the sea and rivers abounding in "excellent fish," particularly *salmon and trout.*

84 Afterwards came the Russian navigator Billings in 1792; and here we have a similar report, only different in form. Describing the natives of Ounalaska, the book in which this visit is recorded says "they *dry salmon*, *cod*, *and halibut* for a winter supply." At Kodiak, it says, "whales are in amazing numbers about the straits of the islands and in the vicinity of Kodiak." Then, again, the reporter, who was the naturalist Sauer, says, "I observed the same species of *salmon* here as at Okhotsk, and saw crabs." Then, again, "the *halibuts* in these seas are extremely large, some weighing 17 poods, or 612 lbs. avoirdupois. The liver of this fish, as also of *cod*, the natives deem unhealthy and never eat, but extract the oil from them." Then, again, returning to Ounalaska, the reporter says "the other fish are *halibut*, *cod*, *two or three species of salmon*, and sometimes one very common in Kamtchatka between 4 and 5 feet long."

From Lisiansky, another Russian navigator, who was on the coast in 1804, I take two passages. The first relates to the fish of Sitka. "For some time," he says, "we had been able to catch no fish but the *halibut*. Those of the species which we caught were fine, some weighing 18 stone, and were of an excellent flavour. This fish abounds here from March to November, when it retires from the coast till the winter is at an end." The other passage relates to the subsistence of the inhabitants during the winter. "They live," he says, "on *dried salmon*, train oil, and the spawn of fish, especially that of *herrings*, of which they always lay in a good stock."

Langsdorf, who was there at the same time, is more full and explicit. Of Ounalaska he says "the principal food consists of fish, sea-dogs, and the flesh of whales. Among the fish the most common and most abundant are *several sorts of salmon*, *cod*, *herrings*, *and holybutt*. The holybutts, which are the sort held in the highest esteem, are sometimes of an enormous size, weighing even several hundred pounds." Then, again, of Kodiak he says, "the most common fish, those which *fresh and dry* constitute a principal article of food, are *herrings*, *cod*, *holybutt*, and *several sorts of salmon;* the latter are taken in *prodigious numbers* by means of nets or dams." Of Sitka he says, "we have several sorts of *salmon*, *holybutt*, whitings, *cod and herrings*." A goodly variety.

Lütke, also a Russian, tells us that he found fish the standing dish at Sitka, from the humblest servant to the Governor, and he mentions *salmon*, *herrings*, *cod*, and turbot. Of salmon there are no less than four kinds, which were eaten fresh when possible, but after June they were sent to the fortress salted. The herrings appeared in February and March. The cod and turbot were caught in the straits during winter. Lütke also reports "fresh cod" at Kodiak.

I close this abstract of foreign testimony by two English authorities often quoted. Sir Edward Belcher, while on this coast in 1837, records that "fish, *halibut*, and *salmon* of two kinds were abundant and moderate, of which the crews purchased and cured great quantities." Sir George Simpson, who was at Sitka in 1841, says, "*halibut*, *cod*, *herrings*, flounders, and many other sorts of fish are always to be had for the taking in unlimited quantities. Salmon have been known literally to embarrass the movements of a canoe. About 100,000 of this fish, equivalent to 1,500 barrels, are annually salted for the use of the establishment." Nothing could be stronger as statement, and when we consider the character of its author, nothing could be stronger as authority.

Cumulative upon all this accumulation of testimony is that of recent visitors. Nobody visits this coast without testifying. The fish are so demonstrative in their abundance that all remark it. Officers of the United States navy report the same fish substantially which Cook reported as far north as the Frozen Ocean. Scientific explorers, prompted by the Smithsonian Institution, report cod in Behring Straits, on the limits of the Arctic Circle. One of these reports that while anchored near Ounimak in 1865 the ship, with a couple of lines, caught "a great many fine cod, most of them between 2 and 3 feet in length." He supposes that there is no place on the coast where they are not numerous. A citizen of Massachusetts, who has recently returned from a prolonged residence on this coast, writes me from Boston, under date of the 8th March, 1867, that "the whale and cod fisheries of the North Pacific are destined to form a very important element in the wealth of California and Washington Territory, and that already numbers of fishermen are engaged there, and more are intending to leave." From all this testimony there can be but one conclusion with regard, at least, to certain kinds of fish.

Salmon exist in unequalled numbers, so that this fish, so aristocratic elsewhere, becomes common enough. Not merely the prize of epicures, it is the food of all. Not merely the pastime of gentle natures, like Isaac Walton or Humphrey Davy, who employ in its pursuit an elegant leisure, its capture is the daily reward of the humblest. On Vancouver's Island it is the constant ration given out by the Hudson Bay Company to the men in their service. At Sitka ships are supplied with it gratuitously by the natives. By the side of the incalculable multitudes swarming out of the Arctic waters, haunting this extended coast, and peopling its rivers, so that at a single haul Portlock took not less than 2,000, how small an allowance are the 200,000 which the salmon fisheries of England annually supply.

Herring seem to be not less multitudinous than the salmon. Their name, derived from the German *heer*, signifying an army, is amply verified. As on the coast of Norway they move in such hosts at times that a boat makes its way with difficulty through the compact mass. I do not speak at a venture, for I have received this incident from a scientific gentleman who witnessed it on the coast. This fish, less aristocratic than the salmon, is a universal food; but here it would seem to be enough for all.

The *halibut*, which is so often mentioned for its size and abun-
85 dance, is less generally known than the others. It is common in the fisheries of Norway, Iceland, and Greenland. In our country its reputation is local. Even at the seaport of Norfolk, in Virginia, it does not appear to have been known before 1843, when its arrival was announced as that of a distinguished stranger: "Our market yesterday morning was enriched with a delicacy from the northern waters, the halibut, a strange fish in these parts, known only to epicures and naturalists." The larger fish are sometimes coarse and far from delicate, but they furnish a substantial meal, while the smaller halibut is much liked.

The *cod* is perhaps the most generally diffused and abundant of all, for it swims in all the waters of this coast from the Frozen Ocean to the southern limit, and in some places it is in immense numbers. It is a popular fish, and when cured or salted is an excellent food in all parts of the world. Palatable, digestible, and nutritious, the cod, as compared with other fish, is as beef compared with other meats, so that its incalculable multitudes seem to be according to a wise economy of Nature. A female cod is estimated to contain 3,400,000 eggs. Talk of multiplication a hundredfold! Here it is to infinity. Imagine these million eggs grown into fish, and then the process of reproduction repeated, and you have numbers which, like astronomical distances, are beyond human conception. But here the ravenous powers of other fish are more destructive than any efforts of the fisherman.

Behind all these is the *whale*, whose corporal dimensions fitly represent the space which he occupies in the fisheries of the world, hardly diminished by petroleum or gas. On this extended coast and in all these seas he is at home. Here is his retreat and playground. This is especially the case with the right whale, or, according to whalers, the "*right* whale to catch," with his bountiful supply of oil and bone, who is everywhere throughout this region, appearing at all points, and swarming its waters. At times they are very large. Kotzebue reports them at Ounalaska of fabulous proportions, called by the natives "Aliamak," and so long "that people engaged at the opposite end of the fish must halloo very loud to be able to understand each other." There is another whale known as the "bow-head," which is so much about Kodiak that it is sometimes called the Kodiak whale. The valuable sperm whale, whose head and hunch are so productive in spermaceti, belongs to a milder sea, but he sometimes strays to the Aleutians. The narwhal, with his two long tusks of ivory, out of which was made the famous throne of the early Danish Kings, belongs to the Frozen Ocean; but he, too, strays into the straits below. As no sea is now *mare clausum*, all these may be pursued by a ship under any flag, except directly on the coast and within its territorial limit. And yet it seems as if the possession of this coast as a commercial base must necessarily give to its people peculiar advantages in this pursuit. What is now done under difficulties will be done then with facilities, such at least as neighbourhood supplied to the natives even with their small craft.

In our country the whale fishery has been a great and prosperous commerce, counted by millions. It has yielded very considerable gains, and sometimes large fortunes. The town of New Bedford, one of the most beautiful in the world, has been enriched by this fishery, and yet you cannot fail to remark the impediments which the business has been compelled to overcome. The ship has been fitted on the Atlantic coast for a voyage of two or three years, and all the crew have entered into a

partnership with regard to the oil. Traversing two oceans, separated by a stormy cape, it reaches its distant destination at last in these northern seas, and commences its tardy work, interrupted by occasional rest and opportunity to refit at the Sandwich Islands. This now will be changed, as the ship sallies forth from friendly harbours near the game which is its mighty chase.

From the whale fishery I turn to another branch of inquiry. Undoubtedly there are infinite numbers of fish on this coast; but in order to determine whether they can constitute a permanent and profitable fishery, there are at least three different considerations which must not be disregarded: (1) the existence of banks or soundings; (2) proper climatic conditions for catching and curing the fish; (3) a market.

1. The *necessity of banks or soundings* is according to reason. Fish are not caught in the deep ocean. It is their nature to seek the bottom, where they are found in some way by the fisherman, armed with trawl, seine, or hook. As among the ancient Romans private luxury provided tanks and ponds for the preservation of fish, so Nature provides banks, which are only *immense fish preserves*. Soundings attest their existence in a margin along the coast; but it becomes important to know if they actually exist to much extent away from the coast. On this point our information is already considerable, if not decisive.

The Sea and Straits of Behring as far as the Frozen Ocean have been surveyed by a naval expedition of the United States under Commander John Rogers. From one of his charts now before me it appears that, beginning at the Frozen Ocean and descending through Behring Straits and Behring Sea, embracing Kotzebue Sound, Norton Bay, and Bristol Bay, to the Peninsula of Alaska, a distance of more than 12 degrees, there are constant uninterrupted soundings from 20 to 50 fathoms, thus presenting an immense extent proper in this respect for fishery. The famous Dogger Bank, between England and Holland, teeming with cod and constituting an inexhaustible fishing ground, has 90 fathoms of water. South of Alaska another chart shows soundings along the coast, with a considerable extent of bank in the neighborhood of the Shumagins and Kodiak, being precisely where all the evidence shows the existence of cod. These banks, north and south of Alaska, taken together, according to the indications of the two charts, have an extent unsurpassed by any other in the world.

There is another illustration full of instruction. It is a Map
86 of the World, in the new work of "Murray on Mammals," "showing approximately the 100-fathom line of soundings," prepared from information furnished by the Hydrographic Department of the British Admiralty. Here are all the soundings of the world. At a glance you discern the remarkable line on the Pacific coast, beginning at 40 degrees of latitude and widening constantly in a north-westerly direction; then with a gentle concave to the coast, stretching from Sitka to the Aleutians, which it envelops with a wide margin, and then embracing and covering Behring Straits to the Frozen Ocean; the whole space, as indicated on the map, seeming like an immense unbroken sea-meadow adjoining the land, and constituting plainly the largest extent of soundings in length and breadth known in the world, larger even than those of Newfoundland added to those of Great Britain. This map, which has been prepared by a scientific authority, simply in the interest of science, is an unimpeachable and disinterested witness.

Actual experience is better authority still. I learn that the people of California have already found cod-banks in these seas, and not deterred by distance have begun to gather a harvest. In 1866 no less than

seventeen vessels left San Francisco for cod fishery on the Asiatic coast. This was a long voyage, requiring eighty days in going and returning. On the way better grounds were discovered among the Aleutians with a better fish; and then, again, other fishing grounds, better in every way, were discovered south of Alaska, in the neighbourhood of the Shumagins, with an excellent harbour at hand. Here one vessel began its work on the 14th May, and, notwithstanding stormy weather, finished it on the 24th July, having taken 52,000 fish. The largest catch in a single day was 2,300. The average weight of the fish dried was 3 lbs. Old fishermen compared the fish in taking and quality with that of Newfoundland. Large profits are anticipated. While fish from the Atlantic side bring at San Francisco not less than 12 cents a pound, it is supposed that Shumagin fish at only 8 cents a pound will yield a better return than the coasting trade. It remains to be seen if these flattering reports are confirmed by further experience.

From an opposite quarter is other confirmation. Here is a letter which I have just received from Charles Bryant, Esq., at present a Member of the Massachusetts Legislature, but for eighteen years acquainted with these seas, where he was engaged in the whale fishery. After mentioning the timber at certain places as a reason for the acquisition of these possessions, he says:

> But the chiefest value, and this alone is worth more than the pittance asked for it, consists in its extensive cod and halibut fish grounds. To the eastward of Kodiak or Aleutian Islands are extensive banks or shoals nearly, if not quite, equal in extent to those of Newfoundland, and as well stocked with fish. Also west of the Aleutian Islands, which extend from Alaska south-west half-way to Kamtchatka, and inclosing that part of land laid down as Bristol Bay, and west of it, is an extensive area of sea varying from 40 fathoms in depth to 20, where I have found the supply of codfish and halibut unfailing. These islands furnish good harbours for curing and preparing fish, as well as shelter in storm.

In another letter Mr. Bryant says that the shoals east of the entrance to Cook's Inlet widen as they extend southward to latitude 50°; and that there are also large shoals south of Prince William Sound, and again off Cross Sound and Sitka. The retired ship-master adds that he never examined these shoals to ascertain their exact limits, but only incidentally, in the course of his regular business, that he might know when and where to obtain fish if he wished them. His report goes beyond any charts of soundings which I have seen, although the charts are coincident with it as far as they go. Cook particularly notices soundings in Bristol Bay and in various places along the coast. Other navigators have done the same. Careful surveys have accomplished so much that at this time the bottom of Behring Sea and of Behring Straits as far as the Frozen Ocean, constituting one immense bank, is completely known in its depth and character.

Add to all this the official Report of Mr. Giddings, Acting Surveyor of Washington Territory, made to the Secretary of the Interior in 1866, where he says:

> Along the coast, between Cape Flattery and Sitka, in the Russian possessions, both cod and halibut are very plenty, and of a much larger size than those taken at the cape or further up the straits and sound. No one who knows these facts doubts that if vessels similar to those used by the bank fishermen from Massachusetts and Maine were fitted out here and were to fish on the *various banks along this coast* it would even now be a most lucrative business. The cod and halibut on this coast, up near Sitka, are fully equal to the largest taken in the eastern waters.

From all this evidence, including maps and personal experience, it is easy to see that the first condition of a considerable fishery is not wanting.

2. *Proper climatic conditions* must exist also. The proverbial hardihood of fishermen has its limits. Elsewhere weather and storm have compelled the abandonment of banks which promised to be profitable. On a portion of this coast there can be no such rigours. South of Alaska and the Aleutians, and also in Bristol Bay, immediately to the north of Alaska, the fishing grounds will compare in temperature with those of Newfoundland or Norway. It is more important to
87 know if the fish when taken can be properly cured. This is one of the privileges of northern skies. Within the Tropics fish may be taken in abundance, but the constant sun does not allow their preservation. The constant rains of Sitka, with only a few bright days in the year, must prevent the work of curing on any considerable scale. But the navigators make frequent mention of dry or preserved fish on the coast, and it is understood that fish are now cured at Kodiak. It had for a long time been customary on this island to dry seal flesh in the air, which could not be done on the mainland. Thus, the opportunity of curing the fish seems to exist near the very banks where they are taken. But the California fishermen carry their fish home to be cured, in which they imitate the fishermen of Gloucester. As the yearly fishing product of this port is larger than that of any other in North America, perhaps in the world, this example cannot be without weight.

3. The *market* also is of prime necessity. Fish are not caught and cured except for a market. Besides the extended coast, where an immediate demand must always prevail in proportion to an increasing population, there is an existing market in California, which is attested by long voyages to Kamtchatka for fish and by recent attempts to find fishing grounds. San Francisco at one time took from Okhotsk 900 tons of fish, being about one-eighth of the yearly fishing product of Gloucester. Her fishing-vessels last year brought home from the Shumagin banks 1,500 tons of dried fish and 10,000 gallons of cod-liver oil. There is also a growing market in Washington and Oregon, too, unless I am misinformed. But beyond a domestic market, spreading from the coast into the interior, there will be a foreign market of no limited amount. Mexico, Central America, and the States of South America, all Catholic in religion, will require this subsistence, and being southern in climate they must look northward for a supply. The two best customers of our Atlantic fisheries are Haïti and Cuba, two Catholic countries under a southern sun. The fishermen of Massachusetts began at an early day to send their cod to Portugal, Spain, and Italy, all Catholic countries under a southern sun. Our "salt" fish became popular. The Portuguese Minister at London in 1784, in a conference with Mr. Adams on a Commercial Treaty with the United States, mentioned "salt fish" among the objects most needed in his country, and added, "the consumption of this article in Portugal is immense, and he would avow that the American salt fish was preferred to any other on account of its quality." (John Adams' "Writings," vol. viii, p. 339.) Such facts are more than curious.

But more important than the Pacific States of the American Continent are the great Empires of Japan and China, with uncounted populations depending much on fish. In China one-tenth subsist on fish. Notwithstanding the considerable supplies at home, it does not seem impossible for an energetic and commercial people to find a market here of inconceivable magnitude, which will dwarf that original fur trade with China that was once so tempting.

From this survey you can all judge this question of the fisheries, which I only state without assuming to determine. You can judge if well-stocked fishing banks have been found under such conditions of climate and market as to supply a new and important fishery. Already the people of California have anticipated the answer, and their enterprise has arrested attention in Europe. The journal of Peterman, the "Geographische Mittheilungen," for the present year, which is the authentic German record of geographical science, borrows from a San Francisco paper to announce these successful voyages as the beginning of a new commerce. If this be so, as there is reason to believe, these coasts and seas will have a new value. The future only can disclose the form they may take. They may be a Newfoundland, a Norway, a Scotland, or perhaps a New England, with another Gloucester and another New Bedford.

INFLUENCE OF FISHERIES.

An eminent French writer, an enthusiast on fishes, Lacepéde, has depicted the influence of fisheries, which he illustrates by the herring, calling it "one of those natural products whose use has decided the destiny of nations." Without adopting these strong words it is easy to see that such fisheries as seem about to be opened on the Pacific must exercise a wonderful influence over the population there, while they give a new spring to commerce and enlarge the national resources. In these aspects it is impossible to exaggerate. Fishermen are not as other men. They have a character of their own, taking its complexion from their life. In ancient Rome they had a peculiar holiday with games, known as "Piscatorii Ludi." The first among us in this pursuit were the Pilgrims, who even before they left Leyden looked to fishing for a support in their new home, on which King James remarked: "So God hath my soul, 'tis an honest trade; 'twas the Apostles' own calling." As soon as they reached Plymouth they began to fish, and not long afterwards appropriated the profits of the fisheries at Cape Cod to found a free school. From this Puritan origin are derived those fisheries which for a while were our chief commerce, and still continue an important element of national wealth. The cod fisheries of the United States are now valued at more than 2,000,000 dollars annually. Even they are inferior to the French fisheries, whose annual product is more than 3,000,000 dollars; and these again are small by the side of the British fisheries, whose annual product is not far from 25,000,000 dollars. Such an interest must be felt far and near, commercially and financially, while it contributes to the comfort of all. How soon it may prevail on the Pacific who can say? But this Treaty is the beginning.

Of course it is difficult to estimate what is so uncertain, or at
88 least is prospective only. Our own fisheries, now so considerable, were small in the beginning; they were small even when they inspired the eloquence of Burke in that most splendid page never equalled even by himself. But the Continental Congress, in its original instructions to its Commissioners for the negotiation of peace with Great Britain, required as a fundamental condition, next to independence, that these fisheries should be preserved unimpaired. While this proposition was under discussion Elbridge Gerry, who had grown up among the fishermen of Massachusetts, repelled the attacks upon their pursuit in words which are not out of place here. "It is not so much fishing," he said, "as enterprise, industry, employment. It is not so much fish; it is gold, the produce of that avocation. It is the employment of those

who would otherwise be idle, the food of those who would otherwise be hungry, the wealth of those who would otherwise be poor." After debate it was resolved by Congress that "the common right of taking fish should in no case be given up." For this principle the eldest Adams contended with ability and constancy until it was fixed in the Treaty, where it stands side by side with the acknowledgment of independence.

In the discussions which ended thus triumphantly, the argument for the fisheries was stated most compactly by Ralph Izard, of South Carolina, in a letter to John Adams, dated at Paris, the 24th September, 1778; and what he said then may be repeated now:

> Since the advantages of commerce have been well understood, the fisheries have been looked upon by the Naval Powers of Europe as an object of the greatest importance. The French have been increasing their fishery ever since the Treaty of Utrecht which has enabled them to rival Great Britain at sea. The fisheries of Holland were not only the first rise of the Republic, but have been the constant support of all her commerce and navigation. This branch of trade is of such concern to the Dutch that in their public prayers they are said to request the Supreme Being that it would please Him to bless the Government, the Lords, the States, and also the fisheries. The fishery of Newfoundland appears to me to be a mine of infinitely greater value than Mexico and Peru. It enriches the proprietors, is worked at less expense, and is the source of naval strength and protection. (John Adams' Works, vol. vii, p. 45.)

I have grouped these allusions that you may see how the fisheries of that day, though comparatively small, enlisted the energies of our fathers. Tradition confirms this record. The sculptured image of a cod hanging from the ceiling in the hall of the Massachusetts House of Representatives, where it was placed during the last century, constantly recalls this industrial and commercial staple with the great part which it performed. And now it is my duty to remind you that these fisheries, guarded so watchfully and vindicated with such conquering zeal, had a value prospective rather than present, or at least small compared with what it is now. Exact figures, covering the ten years between 1765 and 1775, show that during this period Massachusetts employed annually in the fisheries 665 vessels amounting to 25,620 tons, and only 4,405 men. In contrast with this interest, which seems so small, although at the time considerable, are the present fisheries of our country: and here again we have exact figures. The number of vessels in the cod fishery alone in 1861, just before the blight of the war reached this business, was 2,753 amounting to 137,665 tons, and with 19,271 men, being more than four times as many vessels and men, and more than five times as much tonnage, as for ten years preceding the Revolution was employed annually by Massachusetts, representing at that time the fishing interest of the country.

Small beginnings, therefore, are no discouragement to me, and I turn with confidence to the future. Already the local fisheries on this coast have developed among the generations of natives a singular gift in building and managing their small craft so as to excite the frequent admiration of voyagers. The larger fisheries there will naturally exercise a corresponding influence on the population destined to build and manage the larger craft. The beautiful baidar will give way to the fishing-smack, the clipper, and the steamer. All things will be changed in form and proportion; but the original aptitude for the sea will remain. A practical race of intrepid navigators will swarm the coast, ready for any enterprise of business or patriotism. Commerce will find new arms; the country new defenders; the national flag new hands to bear it aloft.

SUMMARY.

Mr. President, I now conclude this examination. From a review of the origin of the Treaty, and the general considerations with regard to it, we have passed to an examination of these possessions under different heads, in order to arrive at a knowledge of their character and value; and here we have noticed the existing Government, which was found to be nothing but a Fur Company, whose only object is trade; then the population, where a very few Russians and Creoles are a scanty fringe to the aboriginal races; then the climate, a ruling influence, with its thermal current of ocean and its eccentric isothermal line, by which the rigours of that coast are tempered to a mildness unknown in the same latitude on the Atlantic side; then the vegetable products, so far as known, chief among which are forests of pine and fir waiting for the axe; then the mineral products, among which are coal and copper, if not iron, silver, lead, and gold, besides the two great products of New England, "granite and ice;" then the furs, including precious
89 skins of the black fox and sea-otter, which originally tempted the Settlement, and have remained to this day the exclusive object of pursuit; and lastly, the fisheries, which, in waters superabundant with animal life beyond any of the globe, seem to promise a new commerce to the country. All these I have presented plainly and impartially, exhibiting my authorities as I proceeded. I have done little more than hold the scales. If these have inclined on either side it is because reason or testimony on that side was the weightier.

WHAT REMAINS TO BE DONE.

As these extensive possessions, constituting a corner of the continent, pass from the Imperial Government of Russia, they will naturally receive a new name. They will be no longer Russian America. How shall they be called? Clearly any name borrowed from classical history or from individual invention will be little better than a misnomer or a nickname unworthy of such an occasion. Even if taken from our own history it will be of doubtful taste. The name should come from the country itself. It should be indigenous, aboriginal, one of the autochthons of the soil. Happily such a name exists, which is as proper in sound as in origin. It appears from the Report of Cook, the illustrious navigator, to whom I have so often referred, that the euphonious name now applied to the peninsula which is the continental link of the Aleutian chain was the sole word used originally by the native islanders "when speaking of the American Continent in general, which they knew perfectly well to be a great land." It only remains that, following these natives, whose places are now ours, we too should call this "great land" Alaska.

Another change must be made without delay. As the Settlements of this coast came *eastward* from Russia, bringing with the Russian flag Western time, the day is earlier by twenty-four hours with them than with us, so that their Sunday is our Saturday, and the other days of the week are in corresponding discord. This must be rectified according to the national meridian, so that there shall be the same Sunday for all, and the other days of the week shall be in corresponding harmony. Important changes must follow, of which this is typical. All else must be rectified according to the national meridian, so that within the sphere of our common country there shall be everywhere the same generous rule and one prevailing harmony. Of course, the

unreformed Julian Calendar, received from Russia, will give place to ours; old style yielding to new style.

An object of immediate practical interest will be the survey of the extended and indented coast by our own officers, bringing it all within the domain of science and assuring to navigation much-needed assistance, while the Republic is honoured by a continuation of national charts, where execution vies with science, and the art of engraving is the beautiful handmaid. Associated with this survey, and scarcely inferior in value, will be the examination of the country by scientific explorers, so that its geological structure may become known, with its various products, vegetable and mineral. But your best work and most important endowment will be the Republican Government, which, looking to a long future, you will organize, with schools free to all and with equal laws, before which every citizen will stand erect in the consciousness of manhood. Here will be a motive power, without which coal itself will be insufficient. Here will be a source of wealth more inexhaustible than any fisheries. Bestow such a Government, and you will bestow what is better than all you can receive, whether quintals of fish, sands of gold, choicest fur, or most beautiful ivory.

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90 No. 7.

LEASE BY THE UNITED STATES TO THE ALASKA COMMERCIAL COMPANY.

This indenture, in duplicate, made this 3rd day of August, A. D. 1870, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an Act of Congress, approved the 1st July, 1870, entitled "An Act to prevent the Extermination of Fur-bearing Animals in Alaska," and the Alaska Commercial Company, a Corporation duly established under the laws of the State of California, acting by John F. Miller, its President and Agent, in accordance with a Resolution of said Corporation, duly adopted at a meeting of its Board of Trustees, held the 31st January, 1870;

Witnesseth, That the said Secretary hereby leases to the said Alaska Commercial Company, without power to transfer, for the term of twenty years, from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the Islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term and in proportion during any part thereof, the sum of 55,000 dollars into the Treasury of the United States, in accordance with the regulations of the Secretary, to be made for this purpose under said Act, which payment shall be secured by deposit of United States bonds to that amount; and also covenant and agree to pay annually into the Treasury of the United States, under said Rules and Regulations, a revenue tax or duty of 2 dollars upon each fur seal skin taken and shipped by them, in accordance with the provisions of the Act aforesaid; and also the sum of 62½ cents for each fur seal skin taken and shipped, and 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands and elsewhere, and sold by said *Company*. And also covenant and agree, in accordance with said

Rules and Regulations, to furnish free of charge, the inhabitants of the Islands of St. Paul and St. George annually during said term, 25,000 dried salmon, 60 cords of firewood, and a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree during the term aforesaid, to maintain a school on each island, in accordance with said Rules and Regulations, and suitable for the education of the natives of said islands, for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said Island of St. Paul more than 75,000 fur seals, and upon the Island of St. George not more than 25,000 fur seals per annum; not to kill any fur seal upon the island aforesaid in any other month except the months of June, July, September and October of each year; not to kill such seals at any time by the use of firearms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said island or on the beaches, cliffs or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the rights to kill seals under this lease, that the Act prescribes or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

And the said lessees hereby agree that they will not in any way sell, transfer or assign this lease, and that any transfer, sale or assignment of the same shall be void or of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them, certified copies of this lease, to be presented to the Government revenue officers for the time being in charge of said islands, as the authority of the said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they or their agents shall not keep, sell, give or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful Rules and Regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein agreed to be paid by said lessees, for the comfort, maintenance, education and protection of the natives of said islands, and for carrying into effect all the provisions of the Act, aforesaid, and will abide by and conform to said Rules and Regulations.

91 And the said lessees, accepting this lease with a full knowledge of the provisions of the aforesaid Act of Congress, further covenant and agree that they will fulfil all the provisions, requirements and limitations of said Act, whether herein specifically set out or not.

In witness whereof the parties aforesaid have hereunto set their hands and seals, the day and year above written.

WILLIAM A. RICHARDSON,
Acting Secretary of the Treasury.

ALASKA COMMERCIAL COMPANY.
(By JNO. F. MILLER, *President.*)

Executed in presence of J. H. SAVILLE.

92 No. 8.

ARTICLE FROM THE "FORUM," NOVEMBER 1889, BY PROFESSOR JAMES B. ANGELL, RELATING TO AMERICAN RIGHTS IN BEHRING SEA.

Alaska is now furnishing us with two international questions of some interest and consequence. The first concerns our right (freely exercised of late under orders of our Treasury Department) to seize foreign vessels engaged in catching fur-bearing seals in Behring Sea many miles away from land, and to send them into port for condemnation and forfeiture. The second concerns the determination of the boundary between Alaska and British America. The former is just now engaging public attention much more than the latter. Possibly the latter may prove both the more important and the more difficult. Naturally enough, some Canadians whose vessels have been seized, and others who wish to annoy the Macdonald Ministry, are using sharp language about the captures. Fortunately the British Government is proceeding with much deliberation and freedom from excitement. If we are reasonable, there is good ground to believe that we can come to an understanding with England and other nations that will secure all the protection we can properly ask for our seals.

What have we been doing to British vessels in Behring Sea? For more than three years armed vessels of our Revenue Marine Service have, in obedience to the commands of the Secretaries of the Treasury, captured British vessels when it was evident that they were catching seals in that sea, even though the vessels were 40, 50, 90 miles, or even farther from shore. These seizures have been made for alleged violation of Section 1956 of the Revised Statutes of the United States, which provides "that no person shall, without the consent of the Secretary of the Treasury, kill any otter, mink, marten, sable, fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof," under certain penalties.

H. F. French, Acting Secretary of the Treasury, 12th March, 1881, officially interpreted that expression, "in the waters thereof," as including all the waters in Behring Sea within our boundaries. He referred to the description of the western boundary-line of Alaska found in the Treaty of Cession by Russia, which reads as follows:

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring Strait on the parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Islands of Krusenstern, or Ignalook, and the Island of Ratmanoff, or Noonarbook, and proceeds due north without limitation into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring Strait and Behring Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south east point of Cape Choukotski, to the meridian of 172° west longitude; thence, from the intersection of that meridian, in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group, in the North Pacific Ocean, to the meridian of 193° west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

Mr. French then added:

All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory. All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

Secretary Manning, in 1886, indorsed and adopted this view. Early in 1887 President Cleveland ordered the discontinuance of proceedings against three British sealers which had been seized, the discharge of the vessels, and the release of the persons arrested. But seizures did not cease. Indeed, Secretary Bayard announced to the British Minister that the above action was taken "without conclusion of any questions which may be found to be involved."

At the last Session of Congress an Act was passed (approved the 2nd March, 1889) "to provide for the protection of the salmon fisheries of Alaska." In its third section it provides that "Section 1956 of the Revised Statutes of the United States [quoted in part], above, is hereby declared to include and apply to all the dominions of the United States in the waters of the Behring Sea." It makes it the duty of the President each year to make proclamation accordingly.

On the 22nd March last President Harrison issued his Proclamation, warning "all persons against entering the waters of Behring Sea within the dominion of the United States for the purpose of violating the provisions of said section 1956, Revised Statutes," and declaring that "all persons found to be or to have been engaged in any violation of the laws of the United States will be arrested and punished as above provided."

93 Now, whatever may be the nature of our acts of which the British complain, it is obvious that we have not been claiming an exclusive jurisdiction for all purposes over Behring Sea, as in 1821 Russia claimed it for 100 Italian miles from the coast all the way from Behring Strait down to the 51st degree of latitude. The Czar, by his Ukase, excluded foreigners from pursuing "commerce, whaling, fishing, and all other industry" in those waters and on the adjacent lands. Under Mr. French's ruling, followed by Mr. Manning, our revenue-cruizers have been directed to arrest foreign vessels only to prevent them from killing fur-bearing animals. The chief object of the legislation by Congress is to prevent the indiscriminate slaughter and early extinction of the fur-seals, which chiefly resort to the Pribyloff Islands to breed. If sealers are allowed to catch them *ad libitum*, while they are on their way to their breeding place, these animals will soon be exterminated, as they have been elsewhere. Therefore the number that the Alaska Commercial Company, which has the exclusive privilege of taking seals on the Islands of St. Paul and St. George of the Pribyloff group, is allowed by contract with the Government to catch is limited to 100,000 a-year. It is, of course, for the interest of many nations that the race of seals should not be destroyed. It is especially for the interest of Great Britain that the race should be perpetuated, for all the seal-skins procured by us in Behring Sea are sent to London to be dressed and prepared for use.

The question is, whether for this laudable purpose of preserving the fur-bearing seals from extinction, and maintaining our undisputed right to control the taking of these animals on the Pribyloff Islands, we may rightfully board, search, and seize foreign vessels in Behring Sea more than 3 miles away from land. The equal right of all nations to use the high seas for any lawful purpose of commerce, navigation, fishing, or hunting is now so universally recognized; the United States have been so constantly the staunch defender of this right; we have so vigorously opposed all attempts of Great Britain to search our vessels in time of peace; we have claimed so vehemently the right of fishing in Canadian waters sharply up to 3-mile line from shore, that obviously we must show some very plain and cogent reasons to justify our course in Behring Sea. *What reasons* have been or can be given?

Our Government has given, so far as is known, no other formal statement than that of Acting Secretary French (above quoted in part), to inform either our citizens or foreign Powers of the precise grounds on which the seizure of British sealers is to be justified. No defence of our action by Secretary Bayard, nor up to the time of this writing by Secretary Blaine or Secretary Windom, has been published.

But in our newspapers editorial writers or contributors have suggested lines of defence of our action. The ground they have generally taken as the strongest is that Russia exercised exclusive jurisdiction in Behring Sea, and that by the cession of Alaska she transferred to us the right to exercise the same jurisdiction. Undoubtedly, by the Edict of 1821, the Czar claimed the right to exclude foreign vessels from navigating that sea within 100 miles of the shore for any purpose; but through the pen of John Quincy Adams, Secretary of State, we stoutly and successfully resisted that claim. The first two sections of the Edict read as follows:

Section 1. The pursuits of commerce, whaling, and fishing, and of all other industry, on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring Strait to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Strait to the south cape of the Island of Urup, viz., to 45° 50′ northern latitude, are exclusively granted to Russian subjects.

Section 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo.

Mr. Adams, replying to the note in which M. Poletica, the Russian Minister at Washington, communicated this Edict, said (25th February, 1822) that the President had seen with surprise this assertion of a territorial claim by Russia down to the 51st degree of latitude on our continent, and added: "To exclude the vessels of our citizens from the shore beyond the ordinary distance to which the territorial jurisdiction extends has excited still greater surprise."

It has been said by some that the controversy between us and Russia did not pertain to Behring Sea, and so that Mr. Adams' contention cannot be pleaded against a claim to jurisdiction by us now over that sea. It is true that the action of Russia in issuing the Edict was chiefly directed against alleged illicit trading by our citizens on the coasts below the Aleutian Islands. There was then little or no trade above them. But the language of the Edict plainly applies to what we call Behring Sea as well as to other parts of the Northern Pacific, although the name Behring Sea was then rarely, if ever, used to designate the waters which we know by that name. Mr. Adams, in sending instructions to Mr. Middleton, our Minister at St. Petersburgh, to guide him in negotiating the Treaty of 1824, wrote (22nd July, 1823) as follows:

From the tenour of the Ukase the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the 45th degree of north latitude on the Asiatic coast to the latitude of 51° north on the western coast of the American
94 continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast. The United States can admit no part of these claims.

And again, in a paper accompanying the above instructions, he said:

The right of navigation and of fishing in the Pacific Ocean, even upon the Asiatic coast north of latitude 45°, can as little be interdicted to the United States as that of traffic with the natives of North America.

After reading such language from Mr. Adams, can any one doubt what his answer would have been to a proposition by Russia to concede

that the Pacific south of the 55th parallel was an open sea, but that the part north of it formed a closed sea, over which she had exclusive jurisdiction?

It may be worthy of notice that, although the Russians sought to exclude foreigners from within 100 miles of the coast, they did not absolutely base their action on the claim that the North Pacific was a closed sea. Affirming that the conditions might justify such a claim and absolute interdiction of the entrance of foreigners, they chose to set forth as the ground of the Edict the necessity of preventing illicit trade. But Mr. Adams thought it worth while to deny explicitly that they could maintain with any justice the claim that the North Pacific was a closed sea even if they had wished to do so.

The Treaty of 1824 secured to us the right of navigation and fishing "in any part of the great ocean commonly called the Pacific Ocean or South Sea," and (in Article IV) for ten years that of frequenting the interior seas, gulfs, harbours, and creeks upon the coast for the purpose of fishing and trading. At the expiration of the ten years Russia refused to renew this last provision, and it never was formally renewed. But, for nearly fifty years at least, American vessels have been engaged in taking whales in Behring Sea without being disturbed by the Russian Government. Long before the cession of Alaska to us, hundreds of our whaling vessels annually visited the Arctic Ocean and Behring Sea, and brought home rich cargoes. It would seem, therefore, that Russia regarded Behring Sea as a part of the Pacific Ocean, and not as one of the "interior seas," access to which was forbidden by the termination of the IVth Article of the Treaty. H. H. Bancroft, in his "History of Alaska," says that in 1842 the Russian Minister of Foreign Affairs explicitly refused to send cruizers to interfere with our whalemen in that sea on the ground that the Treaty gave us the right of fishing over the whole extent of the Pacific. Whether, therefore, we have regard to Mr. Adams' arguments or to the treatment of our whalers by Russia, it seems that we must find some other justification of our seizures of British sealers than the possession of the right through the cession of Alaska by Russia.

Can we sustain a claim that Behring Sea is a closed Sea and so subject to our control? It is, perhaps, impossible to frame a definition of a closed sea which the publicists of all nations will accept. Vattel's closed sea is one "entirely inclosed by the land of a nation, with only a communication with the ocean by a channel, of which that nation may take possession." Hautefeuille substantially adopts this statement, asserting more specifically, however, that the channel must be narrow enough to be defended from the shores. Perels, one of the more eminent of the later German writers, practically accepts Hautefeuille's definition. But so narrow a channel or opening as that indicated by the eminent French writer can hardly be insisted on. Probably most authorities will regard it as a reasonable requirement that the entrance to the sea should be narrow enough to make the naval occupation of it easy or practicable. We, at least, may be expected to prescribe no definition which would make the Gulf of St. Lawrence a closed sea.

Behring Sea is not inclosed wholly by our territory. From the most western island in our possession to the nearest point on the Asiatic shore is more than 300 miles. From our most western island, Attou, to the nearest Russian island, Copper Island, is 183 miles. The sea from east to west measures about 1,100 miles, and from north to south fully 800 miles. The area of the sea must be at least two-thirds as great as that of the Mediterranean, and more than twice that of the

North Sea. The Straits of Gibraltar are less than 9 miles wide. The chief entrance to the Gulf of St. Lawrence, which is entirely surrounded by British territory, is only about 50 miles in width. Behring Sea is open on the north by the Straits, 36 miles wide, which form a passage-way to the Arctic Ocean. On what grounds and after what modern precedent we could set up a claim to hold this great sea, with its wide approaches, as a *mare clausum*, it is not easy to see.

Our Government has never formally set up the claim that it is a closed sea. Governor Boutwell, when Secretary of the Treasury, in 1872, speaking of intended expeditions of foreign sealers into Behring Sea, said:

I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such an attempt within a marine league of the shore.

Congress, guided by the caution of certain Senators, in its Act of the 2nd March, 1889, forbore to use language which might seem to apply the doctrine of *mare clausum* to Behring Sea. The House of Representatives did insert in the Bill a section beginning as follows:

95 Section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to all the waters of Behring Sea in Alaska embraced within the boundary-lines mentioned and described in the Treaty with Russia.

The Senate disagreeing with the House on the adoption of this language, a Committee of Conference agreed to the phraseology as it now stands in the Act:

Section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominions of the United States in the waters of Behring Sea.

The President's Proclamation of the 21st March, 1889, merely recites Section 1956 of the Revised Statutes and the 3rd section of the Act of the 2nd March, and gives warning against "violation of the laws of the United States." But obviously neither the Act nor the Proclamation was intended to declare the doctrine of *mare clausum* to be applicable to Behring Sea. They merely affirm that we will exercise our authority in the execution of a certain law wherever our dominion extends in that sea. It is left to be determined, if need be, how far that dominion extends.

An argument for preventing the unrestrained hunting of seals in Behring Sea which our late Minister to Russia, Mr. Lothrop, heard presented by Russians, is of interest. Briefly stated, it is this: The seal fishery is the main resource of the people on the Asiatic shore of that sea for gaining a livelihood. Every people has conceded to it the control of such part of the sea contiguous to its coasts as is essential to the protection of the inhabitants. The common rights to the open sea must be enjoyed in ways compatible with the safety, and certainly with the existence, of the people on its shores. Hence, the Russians should control the seal fishery in their part of the sea.

No doubt the condition of the Siberians on that coast would present a strong case for generous action on the part of foreigners in abstaining from interference with their means of gaining a livelihood. By common consent, out of regard to the hardships of their life, fishermen are not disturbed in their pursuits in time of war. But can the Russian argument, even if it has validity for the Siberians, be used by us? We have without any scruple for half a century taken whales in the seas adjacent to them. We can hardly assert with much plausibility

that the members of the Alaska Commercial Company, which has the monopoly of seal-catching on and near the Pribyloff Islands, can plead, *in formâ pauperis*, for protection on grounds of charity.

It may be argued that, since most of the seals which are taken by the British breed on our soil in the Pribyloff Islands, we have an exclusive claim to them in the sea, or at any rate a right to protect them there from extinction. But some of them breed on Copper Island and Behring Island, both of which belong to Russia. How is it possible to maintain any claim to ownership in seals on the high seas under any principle of law applicable to wild animals? We can acquire no property rights in animals *ferœ naturæ* from their birth on our soil, except for the time that we hold them in our possession. A claim by Canada to the wild ducks hatched in her territory, after the birds have passed her boundary, would seem to be just as valid as ours to seals in the open sea.

I recall only one case which seems to furnish any analogy for the claim that we may regulate seal fishing in the open waters of Behring Sea. The British Government does regulate and control the pearl fisheries in the open sea from 8 to 20 miles west of the northern end of Ceylon. But it is to be presumed that this is done under sufferance of other Powers, because they have had no interest in interfering with the pursuit of the pearl divers. Should they claim the right to seek pearls in those waters, it is not easy to see how Great Britain could oppose any argument except that of long acquiescence by them in her exclusive possession of the pearl grounds; and it is questionable whether that argument would have much weight.

It may be said that if we have no right to exclude other nations from taking seals in the open waters of Behring Sea, and if the Law and the Treasury Regulations, as they now stand, can be enforced against our own citizens in those same open waters, we are clearly discriminating against our own countrymen. The foreigners may kill seals at times and in places forbidden to us. This is true. It is one of the anomalies and embarrassments of the present situation.

On the whole, we find no good ground on which we can claim as a right the exclusion of foreigners from the open waters of Behring Sea for the purpose of protecting the seals. If we have any good ground, and are determined to stand on it, then we ought to proceed with more vigour in maintaining our policy. To send one little revenue-steamer, carrying a small crew, into Behring Sea, and to dispatch on each of the captured vessels one man, a common seaman, as a prize crew or commanding officer, is simply absurd. Each of the vessels seized, instead of coming within the jurisdiction of a United States Court, goes to a British port, files its claim for damage with the British authorities, and prepares for another voyage to the same waters in which it was captured. If, however, we have no right to seize foreign vessels in the open waters of Behring Sea, then we ought to lose no time in negotiating with the interested Powers, especially Great Britain, Russia, and Japan, on the best method of preserving the seals from extermination, and of securing to ourselves what we have a right to retain. Those Powers showed, in the correspondence carried on with them by Secretary Bayard, their entire willingness to come to some understanding on the matter. It is so obviously for the
96 interest of the above-named States that the seals should not be exterminated that it cannot be difficult to make some satisfactory adjustment of the question. The limits of this article compel brevity in treating the question of determining the boundary between Alaska

and British America. The language of the Treaty of Cession in defining this boundary is copied from the Treaty of 1825 between Russia and Great Britain, Articles III and IV, as follows:

Article III. Commencing from the southernmost point of the island called Prince of Wales' Island, which point lies in the parallel of 54° 40′ north latitude, and between the 131st and 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel as far as the point of the continent where it strikes the 56th degree of north latitude; and from this last-mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the Continent of America to the north-west.

Article IV. With reference to the line of demarcation laid down in the preceding Article, it is understood:

First, that the island called Prince of Wales' Island shall belong wholly to Russia. [Now by this cession to the United States.]

Secondly, that whenever the summit of the mountains that extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the winding of the coast, which shall never extend the distance of 10 marine leagues therefrom.

The line thus indicated has never been surveyed. The importance of determining it before long is obvious. If, as is reported, there are valuable mines near the boundary, it is essential to the preservation of the rights of property and of life that the limits of the jurisdiction of the two nations be fixed.

The principal difficulties which have been suggested in determining and marking the boundary are the following: Some of the Canadians have maintained (I am not aware that the British Government has taken such a position) that our maps do not correctly indicate the initial point of the line at Portland Channel. Their contention is probably without good ground. Again, while the Treaty provides that the line "shall follow the summit of the mountains," it is affirmed, and so far as we now know with probable truthfulness, that the mountains do not form a range, but are so scattered here and there that it is impracticable to make a line that shall comply with the Treaty. Furthermore, suppose it were practicable to run a line on the summit, the coast is so irregular and so indented with bays that it may not be easy to agree on a line from which to lay off the 10 marine leagues referred to in the second paragraph of Article IV.

But even if all these obstacles are removed, the actual labour and cost of running the line in this wilderness will be very great. In 1872 our engineering officers estimated that the cost would be 1,500,000 dollars, and the time required for the field work nine years, and for the mapping one more year. If, as seems probable from our scanty information, the line described is an impossible one to run, we shall have to agree on an arbitrary line run from some point in the south of the territory to some point in the neighbourhood of the Chilkat Pass, so as to give us substantially the territory intended to be conveyed by Article IV. But it seems desirable that we should make some preliminary surveys before we take any decisive action. The British, who have had trading and scientific expeditions exploring British Columbia, doubtless know more of the region under consideration than we. They are ready to begin negotiations at once. Congress should not delay action. Our experience has shown us that boundary questions are not speedily

tled. After a century of effort, we have at last determined nearly all boundaries except this between Alaska and British Columbia. If begin at once, it will be years before we shall have determined and rked this so that the lumberman and the miner on the Alaska ıntains will know whether they are amenable to the authority of United States or to that of Great Britain. It is the part of wisdom settle this question of boundary while the debatable region is an ccupied wilderness, rather than to wait until conflicts have arisen l blood has been shed.

(Signed) JAMES B. ANGELL.

BEHRING SEA ARBITRATION.

APPENDIX

TO

ASE OF HER MAJESTY'S GOVERNMENT.

VOLUME II.

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PART 1.

LECTIONS FROM CORRESPONDENCE BETWEEN GREAT BRITAIN AND RUSSIA, 1821-25.

SELECTIONS FROM CORRESPONDENCE

RESPECTING THE

USSIAN UKASE OF SEPTEMBER, 1821.

1821-25.

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..IONS FROM CORRESPONDENCE RESPECTING THE RUSSIAN UKASE OF SEPTEMBER, 1821.

No. 1.

Baron Nicolay to the Marquis of Londonderry.—(*Received November 12.*)

LONDRES, *le 31 Octobre* (*12 Novembre*), *1821.*

Le Soussigné, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur de Toutes les Russies, s'empresse de s'acquitter auprès de son Excellence M. le Marquis de Londonderry des ordres qu'il vient de recevoir de sa Cour en portant à la connaissance du Ministère Britannique la communication suivante.

Au moment de renouveler le privilège de la Compagnie Russe-Américaine et de soumettre à une révision les Règlemens concernant ses opérations commerciales, le Gouvernement Impérial a dû vouer une attention particulière aux plaintes auxquelles ont plus d'une fois donné lieu les entreprises de contrebandiers et d'aventuriers étrangers sur les côtes nord-ouest de l'Amérique appartenant à la Russie. Il a été reconnû que ces entreprises n'ont pas seulement pour objet un commerce frauduleux de pelleteries et autres articles exclusivement réservés à la Compagnie Russe-Américaine, mais qu'elles paroissent souvent même trahir une tendance hostile; attendû que des gens sans aveu viennent fournir des armes et des munitions aux naturels dans les posessions Russes d'Amérique, et qu'ils les excitent en quelque sorte à la résistance et à la révolte contre les autorités qui s'y trouvent établies. Il étoit donc essentiel d'opposer des mesures sévères à ces menées, et de garantir la Compagnie contre les préjudices sensibles qui en résultoient pour elle, et c'est dans cette vue que le Règlement ci-joint vient d'être publié.

Après avoir ainsi exposé les motifs qui ont dicté ce Règlement, le Soussigné a ordre d'y ajouter les explications suivantes.

Le nouveau Règlement n'interdit point aux bâtimens étrangers la navigation dans les mers qui baignent les possessions Russes sur les côtes nord-ouest de l'Amérique et nord-est de l'Asie. Une défense pareille, qu'il n'eût pas été difficile d'appuyer d'une force navale suffisante, auroit été à la vérité le moyen le plus efficace de protéger les intérêts de la Compagnie Russe-Américaine, et elle sembleroit en outre fondée sur des droits incontestables. Car, d'un côté éloigner une fois pour toutes, des plages indiquées ci-dessus, les navires étrangers, c'étoit faire cesser à jamais les entreprises coupables qu'il s'agit de prévenir. D'un autre côté, en considérant les possessions Russes qui s'étendent, tant sur la côte nord-ouest de l'Amérique, depuis le Détroit de Behring jusqu'au

51° de latitude septentrionale, que sur la côte opposée de l'Asie et les îles adjacentes, depuis le même détroit jusqu'au 45°, on ne sauroit disconvenir que l'espace de mer dont ces possessions forment les limites ne réunisse toutes les conditions que les publicistes les plus connus et les mieux accrédités ont attachées à la définition *d'une mer fermée*, et que par conséquent le Gouvernement Russe ne se trouve parfaitement autorisé à exercer sur cette mer des droits de souveraineté, et nommément celui d'interdire l'approche aux étrangers. Cependant, quelque importantes que fussent les considérations que réclamoient une semblable mesure, quelque légitime qu'elle eût été en elle-même, le Gouvernement Impérial n'a pas voulû, dans cette occasion, faire usage d'une faculté qui lui assurent les titres de possession les plus sacrés, et que confirment d'ailleurs des autorités irréfragables. Il s'est borné au contraire, comme on a lieu de s'en convaincre par le Règlement nouvellement publié, à défendre à tout bâtiment étranger, non seulement d'aborder dans les Établissemens de la Compagnie Américaine, comme dans la presqu'île du Kamtchatka et les côtes de la Mer d'Ochotsh, mais aussi de naviguer le long de ces possessions et en général, d'en approcher à une distance de 100 milles d'Italie.

2 Des vaisseaux de la marine Impériale viennent d'être expédiés pour veiller au maintien de cette disposition. Elle nous paroit aussi légale qu'elle a été urgente. Car, s'il est démontré que le Gouvernement Impérial eut eu à la rigueur la faculté de fermer entièrement aux étrangers cette partie de l'Océan Pacifique, que bordent nos possessions en Amérique et en Asie, à plus forte raison le droit en vertu duquel il vient d'adopter une mesure beaucoup moins généralement restrictive doit ne pas être révoqué en doute. Ce droit est en effet universellement admis, et toutes les Puissances Maritimes l'ont plus ou moins exercé dans leur système colonial. Enfin, l'usage que le Gouvernement Impérial vient d'en faire en faveur de la Compagnie Russe-Américaine, ne sauroit préjudicer aux intérêts d'aucune nation attendû qu'il n'est guère à supposer, qu'outre les exceptions spécifiées dans notre Règlement, un vaisseau étranger quelconque puisse avoir des motifs réels et légitimes pour relâcher aux Établissemens Russes. La Cour Impériale aime donc à espérer que les Puissances auxquelles ce nouveau Règlement est communiqué reconnoitront les considérations majeures qui lui ont servi de base, et que, par une suite des relations de paix et de bonne harmonie qui subsistent entre elles et la Russie, elles n'hésiteront pas à imposer à leurs sujets respectifs le devoir de s'y conformer strictement, afin de prévenir les inconvéniens auxquels une contravention de leur part donneroit lieu nécessairement.

Les officiers commandant les bâtimens de guerre Russes qui sont destiné à veiller dans l'Océan Pacifique au maintien des dispositions susmentionnées, ont reçû l'ordre de commencer à les mettre en vigueur envers ceux des navires étrangers qui seroient sortis d'un des ports de l'Europe après le 1er Mars, 1822, ou des États-Unis après le 1er Juillet. A dater de ces époques aucun navire ne pourra plus légalement prétexter l'ignorance du nouveau Règlement.

Le Soussigné saisit, &c.

LE BARON DE NICOLAY.

No. 2.

The King's Advocate to the Marquis of Londonderry.—(Received November 22.)

DOCTORS'-COMMONS, *November 20, 1821.*

MY LORD: I am honoured with your Lordship's commands signified in Mr. Plantas' letter of the 15th instant, transmitting a note from the Russian Envoy, inclosing a printed copy of an Edict for regulating foreign trade with the Aleutian Islands, and other possessions on the north-west coast of America, appertaining to Russia.

And your Lordship is pleased to request that I would take the tenour of the Regulations therein contained into consideration, and report thereon for your Lordship's information.

In obedience to your Lordship's directions I have the honour to report that it appears to be the object of this communication to obtain indirectly from His Majesty's Government an acknowledgment of territorial rights which are assumed by Russia over a portion of sea that may become of great importance with reference to the trade of that part of the world, and the discoveries which are now directed to that quarter.

The communication indirectly asserts an exclusive right in the sovereignty "*d'une mer fermée*, sur l'espace de mer, dont les possessions" from Behring's Straits to 51° north, on the west coast of America, and 45° north on the coast of Asia) "ferment les limites," and it proceeds to announce as a qualified exercise of that right the exclusion of all foreign ships, under pain of confiscation, from approaching within 100 miles of those coasts.

The extent of territory so assumed is much greater than is ordinarily recognized by the principles of the law of nations. And I humbly submit whether it may not be expedient to declare the intention of His Majesty's Government to adhere to those principles, with such observations as may be deemed expedient to deprecate any infringement on the rights of commerce and navigation that may affect Great Britain or her subjects.

I have, &c. (Signed) CHRIST. ROBINSON.

No. 3.

Count Lieven to the Marquis of Londonderry.—(Received November 30.)

Le Comte de Lieven présente ses compliments à Milord Londonderry, et a l'honneur de transmettre ci-joint à son Excellence la copie qu'elle lui a demandée de la dépêche de M. le Comte de Nesselrode, en date du 7 Octobre, *sub* No. 29.

HARLEY STREET, *Londres, le 29 Novembre, 1821.*

[Inclosure 1 in No. 3.—Circulaire.]

Count Nesselrode to Count Lieven.

SAINT-PÉTERSBOURG, *le 7 Octobre, 1821.*

M. LE COMTE: Au moment de renouveler le privilège de la Compagnie Russe-Américaine, et de soumettre à une révision des Règlemens concernant ses opérations commerciales, le Gouvernement a dû vouer une attention particulière aux plaintes auxquelles ont plus d'une fois donné lieu les entreprises de contrebandiers et aventuriers étrangers sur les côtes nord-ouest de l'Amérique appartenant à la Russie.

Il a été reconnu que ces entreprises n'ont pas seulement pour objet un commerce frauduleux de pelleteries et d'autres articles exclusivement réservés à la Compagnie Russe-Américaine, mais qu'elles paroissent souvent même trahir une tendance hostile; attendû que des gens sans aveu viennent fournir des armes et des munitions aux naturels dans nos possessions d'Amérique, et qu'ils les excitent en quelque sorte à la résistance et à la révolte contre les autorités qui s'y trouvent établies.

Il était donc essentiel d'opposer des mesures sévères à ces menées, et de garantir la Compagnie contre les préjudices sensibles qui en résultoient pour elle; et c'est dans cette vue que le Règlement ci-joint vient d'être publié. Les Missions Impériales sont invitées à le porter à la connaissance des Gouvernements auprès desquels elles sont accréditées, et à leur exposer les motifs qui l'ont dicté en y ajoutant les explications suivantes.

Le nouveau Règlement n'interdit point aux bâtimens étrangers la navigation dans les mers qui baignent les possessions Russes sur les côtes nord-ouest de l'Amérique et nord-est de l'Asie. Une défense pareille qu'il n'eût pas été difficile d'appuyer d'une force navale suffisante, auroit été, à la vérité, le moyen le plus efficace de protéger les intérêts de la Compagnie Russe-Américaine, et elle sembleroit en outre fondée sur des droits incontestables. Car, d'un côté éloigner une fois pour toutes, des plages indiquées ci-dessus, les navires étrangers, c'étoit faire cesser à jamais les entreprises coupables qu'il s'agit de prévenir. D'un autre côté, en considérant les possessions Russes qui s'étendent, tant sur la côte nord-ouest de l'Amérique, depuis le Détroit de Behring jusqu'au 51° de latitude septentrionale, que sur la côte opposée de l'Asie et les îles adjacentes, depuis le même détroit jusqu'au 45°, on ne sauroit disconvenir que l'espace de mer dont ces possessions forment les limites ne réunisse toutes les conditions que les publicistes les plus connûs et les mieux accrédités ont attachés à la définition *d'une mer fermée*, et que par conséquent le Gouvernement Russe ne se trouve parfaitement autorisé à exercer sur cette mer des droits de souveraineté, et nommément celui d'en interdire l'approche aux étrangers. Cependant quelque importantes que fûssent les considérations que réclamoient une semblable mesure, quelque légitime qu'elle eût été en elle-même, le Gouvernement Impérial n'a pas voulu, dans cette occasion, faire usage d'une faculté que lui assurent les titres de possession les plus sacrés, et que confirment d'ailleurs des autorités irréfragables. Il s'est borné, au contraire, comme on a lieu de s'en convaincre par le Règlement nouvellement publié, à défendre à tout bâtiment étranger, non seulement d'aborder dans l'Établissement de la Compagnie Américaine, comme dans la presqu'île du Kamtchatka, et les côtes de la Mer d'Ochotsh, mais aussi de naviguer le long de ces possessions, et, en général, d'en approcher à une distance de 100 milles d'Italie.

Des vaisseaux de la marine Impériale viennent d'être expédiés pour veiller au maintien de cette disposition. Elle nous paroit aussi légale qu'elle a été urgente. Car s'il est démontré que le Gouvernement Impérial eût eu à la rigueur la faculté de fermer entièrement aux étrangers cette partie de l'Océan Pacifique, que bordent nos possessions en Amérique et en Asie, à plus forte raison le droit en vertu duquel il vient d'adopter une mesure beaucoup moins généralement restrictive, doit ne
4 pas être révoqué en doute. Ce droit est, en effet, universellement admis, et toutes les Puissances Maritimes l'ont plus ou moins exercé dans leur système colonial. Enfin, l'usage que le Gouvernement Impérial vient d'en faire en faveur de la Compagnie Russe-Américaine, ne sauroit préjudicier aux intérêts d'aucune nation, attendu qu'il n'est guère à supposer, qu'outre les exceptions spécifiées dans notre Règlement, un vaisseau étranger quelconque puisse avoir des motifs réels et légitimes pour relâcher aux Établissemens Russes. Nous aimons donc à espérer que les Puissances auxquelles ce nouveau Règlement va être communiqué reconnoitront les considérations majeures qui lui ont servi de base, et que, par une suite des relations de paix et de bonne harmonie qui subsistent entre elles et la Russie, elles n'hésiteront pas à imposer à leurs sujets respectifs le devoir de s'y conformer strictement, afin de prevenir les inconvéniens auxquels une contravention de leur part donneroit lieu nécessairement.

Sa Majesté l'Empereur désire que les Missions obtiennent ce résultât en s'acquittant de la communication que leur prescrit la présente Circulaire.

Recevez, &c.

NESSELRODE.

P. S.—En dressant les instructions pour les officiers commandant les bâtimens de guerre Russes qui sont destinés à veiller, dans l'Océan Pacifique, au maintien des dispositions nouvellement arrêtées à l'égard des Établissemens de la Compagnie Russe-Américaine, le Gouvernement Impérial est parti de la supposition qu'un navire étranger qui auroit fait voile d'un des ports de l'Europe, après le 1er Mars, 1822, ou d'un des ports des États-Unis, après le 1er Juillet de la même année, ne pourroit plus légalement prétexter l'ignorance du nouveau Règlement. Nos marins ont donc reçu l'ordre de régler en conséquence leur conduite quant à l'époque à dater de laquelle ils auroient à mettre en vigueur les dispositions susmentionnées.

Nous croyons devoir communiquer ces notions additionnelles aux Missions Impé-ales, en les invitant à les porter également à la connoissance des Gouvernemens ıprès desquels elles sont accréditées, afin de compléter ainsi les informations ınfermées dans la Circulaire de ce jour.

N.

[Inclosure 2 in No. 3.—Traduction.]

Ukase, dated September 4, 1821.

Nous étant convaincus par les Rapports qui nous ont été présentés que le commerce ı nos sujets avec les Iles Aléoutes et la partie de la côte nord-ouest de l'Amérique ımise à la Russie, éprouve des entraves et qu'il est exposé à des pertes sensibles ır suite du commerce frauduleux qu'exercent des étrangers.

Considérant, d'autre part, que la cause principale de ces pertes est le défaut de gles positives, tendantes à fixer les limites de la navigation le long de ces côtes et ırdre auquel doivent être soumises les relations maritimes tant dans ces parages ıe sur toute la côte orientale de la Sibérie et aux Iles Kouriles, nous avons jugé ınvenable d'arrêter à cet égard les principes développés dans le Règlement spécial ınexé au présent Ukase.

En le transmettant au Sénat dirigeant, nous lui ordonnons de le publier et de endre toutes les mesures nécessaires à son exécution.

L'original est signé de la propre main de Sa Majesté l'Empereur.

ALEXANDRE.

LE 4 SEPTEMBRE, 1821.

No. 4.

ir C. Bagot to the Marquis of Londonderry.—(Received November 21.)

o. 56.] ST. PETERSBURGH, *November 17, 1821.*

MY LORD: In my despatch No. 50 of the 3rd October, I transmitted ı your Lordship the heads of an Ukase which had been published here, ıspecting the commerce and navigation of the north-west coasts of merica, the Aleutian and Kurile Isles, and the eastern coasts of Siberia.

Shortly after the date of that despatch I had an opportunity of speaking of this Ukase to Count Nesselrode, and he gave me to nderstand (as I then thought) that it would be communicated to me ficially, accompanied by an explanation of its object, and the grounds pon which it had been issued.

After waiting several weeks for this communication, I found that it ad been already made through the Imperial Ministers abroad to such f the European Powers as might have been supposed to be interested ı the matter, and that it had been dispatched by a special messenger ı the United States.

This circumstance will, I hope, explain to your Lordship satisfactorily ıe reasons for which I have so long delayed to write more fully to [is Majesty's Government upon a subject which seems to me of some ational importance.

I have not seen, nor do I know the nature of, the communication hich may have been made to your Lordship by the Russian Ambas-ıdor in London, but in my conversation with Count Nesselrode upon ıe subject, he told me that the object of the measure was to prevent ıe "commerce interlope" of the citizens of the United States, who ere not only in the habit of resorting to the Russian coasts and islands ı the Pacific, for the purpose of interfering in their trade with China ı the lucrative article of sea-otter skins, but were also in the constant

practice of introducing prohibited articles, and especially gunpowder, into the Russian dominions in that quarter, that representations had been repeatedly made to the American Government upon the subject, who had professed to be unable to control their citizens in those distant seas, but had intimated that they should not take in ill-part, whatever measures the Russian Government might deem it expedient to adopt for the protection of their own rights.

When I found that the Ukase had been already communicated to your Lordship I abstained from entering with Count Nesselrode into any further discussion of it, or inquiring of him upon what grounds the 51st degree of north latitude (which, after the last Treaty between Spain and the United States, reduces the possessions of Great Britain to 2° of latitude) had been now declared, I believe for the first time, to be the boundary of the Russian dominion upon those coasts, but I have adverted to the novel principle involved in that Regulation of the Decree which dooms to confiscation all foreign vessels which may approach within 100 Italian miles of the Russian coasts, and I find that this extraordinary pretension has been adopted from, and is supposed to be justified by, the XIIth Article of the Treaty of Utrecht.

I have the honour to transmit to your Lordship, under a separate cover, an English translation of the Ukase, and I at the same time inclose a Map of the north-west coasts of America, and the Aleutian and Kurile Islands, which has been published in the Quarter-Master-General's Department here, and upon which I have marked all the principal Russian Settlements.

I have, &c. (Signed) CHARLES BAGOT.

[Inclosure in No. 4.]

On the original is written in the handwriting of His Imperial Majesty: "Be it accordingly.—ALEXANDER."

KAMMENOI OSTROFF, *September 4, 1821.*

Rules established for the Limits of Navigation and Order of Communication along the Coast of the Eastern Siberia, the North-West Coast of America, and the Aleutian, Kurile, and other Islands.

§ 1. The pursuits of commerce, whaling, and fishery, and of all other industry on all islands, posts, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Straits to the 51° of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Straits to the south cape of the Island of Urup, viz., to the 45° 50′ north latitude, is exclusively granted to Russian subjects.

§ 2. It is therefore prohibited to all foreign vessels, not only to land on the coasts and islands belonging to Russia as stated above, but, also, to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo.

§ 3. An exception to this rule is to be made in favour of vessels carried thither by heavy gales, or real want of provisions, and unable to make any other shore but such as belongs to Russia; in these cases they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly Governments, merely on discoveries, are likewise exempt from the foregoing Rule 28. In this case, however, they must be previously provided with passports from the Russian Minister of the Navy.

§ 4. Foreign merchant-ships which, for reasons stated in the foregoing rule, touch at any of the above-mentioned coasts, are obliged to endeavour to choose a place where Russians are settled, and to act as hereafter stated.

§ 5. On the arrival of a foreign merchant-ship, wind and weather permitting, a *pilot will* meet her to appoint an anchoring place appropriated for the purpose.

The captain, who, notwithstanding this, anchors elsewhere without being able to assign a reason to the Commander of the place, shall pay a fine of 100 dollars.

§ 6. All rowing-boats of foreign merchant-vessels are obliged to land at one place appointed for them, where, in the day-time, a white flag is hung out, and at night a lantern, and where a clerk is to attend continually to prevent importing and exporting any articles or goods. Whoever lands at any other place, even without an intent of smuggling, shall pay a fine of 50 dollars, and if a person be discovered bringing any articles ashore, a fine of 500 dollars is to be exacted and the goods to be confiscated.

§ 7. The commanders of said vessels being in want of provisions, stores, &c., for the continuation of their voyage, are bound to apply to the Commander of the place, who will appoint where these may be obtained, after which they may, without difficulty, send their boats there to procure all they want. Whoever deviates from this Rule shall pay a fine of 100 dollars.

§ 8. If it be unavoidable, for the purpose of repairing or careening a foreign merchant-ship, that she discharge the whole cargo, the master is obliged to ask the permission of the Commander of the place. In this case the captain shall deliver to the Commander an exact list of the natured quality of the goods discharged. Every one who omits to report any part of the cargo will be suspected of smuggling, and shall pay a fine of 1,000 dollars.

§ 9. All expenses incurred by these vessels during their stay in the Russian territories must be paid in cash or bills of exchange. In case, however, the captains of these ships have no money on board and nobody gives security for their bonds, the Commander can, at their request, allow the sale of such articles, stores or goods, required merely for defraying the above-stated expenses. These sales, however, can be made only to the Company, and through the medium of the Commander, but must not exceed the expenses of the ships, under penalty of the cargo being seized and a fine paid of 1,000 dollars.

§ 10. As soon as said foreign merchant-vessels are ready for their cargoes, stores, provisions, &c., they must immediately proceed to take them in, and after an examination, if they have loaded all the above-stated articles, and a written certificate of their not having left anything behind, they are to set sail. Such vessels as have not been unloaded are likewise subjected to sail without the least delay as soon as they are able to proceed to sea.

§ 11. It is prohibited to all commanders of the said foreign vessels, commissioners and others, whosoever they may be, to receive any articles, stores, or goods in those places where they will have landed, except in the case as per § 7, under penalty of seizure of their ship and cargo.

§ 12. It is prohibited to these foreign ships to receive on board, without special permission of the commanders, any of the people in the service of the Company, or of the foreigners living in the Company's Settlements. Ships proved to have the intention of carrying off any person belonging to the Colony shall be seized.

§ 13. Every purchase, sale, or barter is prohibited betwixt a foreign merchant-ship and people in the service of the Company. This prohibition extends equally to those who are on shore and to those employed in the Company's ships. Any ship acting against this Rule shall pay five times the value of the articles, stores, or goods constituting this prohibited traffic.

§ 14. It is likewise interdicted to foreign ships to carry on any traffic or barter with the natives of the islands, and of the north-west coast of America, in the whole extent here above mentioned. A ship convicted of this trade shall be confiscated.

7 § 15. All articles, stores, and goods found on shore in ports and harbours belonging to Russian subjects (carrying on prohibited traffic) or to foreign vessels are to be seized.

§ 16. The foreign merchant-ships lying in harbour or in the roads dare, under no pretence, send out their boats to vessels at sea, or to those already come in, until they have been spoken to and visited, according to the existing customs. Whenever a foreign vessel hoists a yellow flag to announce an infectious disease being on board, or the symptoms of the same, or any other danger of which she wishes to be freed, every communication is interdicted until said flag is taken down. From this Rule, however, are excepted persons appointed for the purpose and whose boats be under the colours of the Russian-American Company. Any vessel acting contrary to this Regulation shall pay a fine of 500 dollars.

§ 17. No ballast may be thrown overboard but in such places as are appointed by the Commanders. The transgressor is liable to a fine of 500 dollars.

§ 18. To all foreign merchant-ships during their stay in anchoring-places, harbours, or roads, it is prohibited to have their guns loaded either with balls or cartridges under the risk of paying a fine of 50 dollars for each gun.

§ 19. No foreign merchant-ship in port, or in the roads, or riding at anchor, may fire guns or muskets *without previously* informing the Commander of the place or

Settlement, unless it be for pilots, signalizing the same by the firing of one, two, or three guns, and hoisting her colours as is customary in similar wants. In acting contrary thereto she is subjected to a fine of 100 dollars for each shot.

§ 20. On the arrival of a foreign ship in the harbour, or in the roads, a boat will immediately be sent to meet her, and to deliver to the captain a printed copy of these Regulations, for which he must give receipt in a book destined for the purpose. He is further obliged to state in the book, as per annexed form, all information required of foreign vessels. All ships refusing to comply with these Regulations dare not approach the harbour, roads, or any anchoring-place.

Destination of the vessel.	Place where the vessel comes from.	Cargo.	Number of guns.	Number of crew.	Name of the captain.	Name of the owner.	What nation.	Name and burthen of the vessel.

§ 21. The captain of a foreign merchant-ship coming to an anchor in the port or in the roads is obliged, on his arrival, to give a statement of the health of the ship's crew, and should, after this, a contagious illness be discovered on board of his vessel, he must immediately inform the Commander of the place thereof. The vessel, according to circumstances, will be either sent off or put under quarantine in a place appropriated for the purpose, where the crew may be cured without putting the inhabitants in danger of infection. Should the captain of such a ship conceal the circumstance, the same will be confiscated with her whole cargo.

§ 22. The master of a vessel, at the request of the Commander of a place, is obliged to produce a list of the whole crew and all the passengers, and should he omit any, he shall pay a fine of 100 dollars for every one left out.

§ 23. The captains are bound to keep their crew in strict order and proper behaviour on the coast, and in the ports, and likewise prevent their trading or bartering with the Company's people. They are answerable for the conduct of their sailors and other inferiors. Illicit trade carried on by sailors, subject the vessel to the same penalty as if done by the captain himself, because it were easy for the captains to carry on smuggling without punishment, and justify themselves by throwing the fault on the sailors. Therefore, every article found upon sailors which they could not hide in their pockets or under their clothes to screen from their superiors,
8 sold or bought on shore, will be considered as contraband from the ship, and is subject to the prescribed fine.

§ 24. Foreign men-of-war shall likewise comply with the above-stated Regulations for the merchant-ships, to maintain the rights and benefit of the Company. In case of opposition, complaints will be made to their Governments.

§ 25. In case a ship of the Russian Imperial navy, or the one belonging to the Russian American Company, meet a foreign vessel on the above-stated coasts, in harbours or roads, within the before-mentioned limits, and the Commander find grounds, by the present Regulation, that the ship be liable to seizure, he is to act as follows:

§ 26. The Commander of a Russian vessel suspecting a foreign vessel to be liable to confiscation must inquire and search the same, and finding her guilty, take possession of her. Should the foreign vessel resist, he is to employ first persuasion, then threats, and at last force; endeavouring, however, at all events, to do this with as much reserve as possible. If the foreign vessel employ force against force, then he shall consider the same as an evident enemy, and force her to surrender according to the naval laws.

§ 27. After getting everything in order and safety on board the foreign vessel, the Commander of the Russian ship, or the officer sent by him, shall demand the journal of the captured vessel, and on the spot shall note down in the same that on such a day, month, and year, at such an hour, and in such a place, he met such and such a foreign vessel, and shall give a brief account of the circumstance, pursuit, and, finally, of the seizure. After signing the same he shall desire the captain of the captured vessel to confirm the same in his own handwriting. Should he, however, refuse to sign the same, the Russian officer is to repeat his summons in presence of all the officers, and if on this it be again refused, and nobody will sign in lieu of the captain, he is then to add this circumstance, signed by himself. After this arrangement, the journal, list of the crew, passports, invoices, accounts, and all further papers respecting the views and pursuits of the voyage of the vessel, shall be put up in one parcel,

as well as all private papers, viz., the journals of the officers, letters, &c., and sealed with the seals of the Russian officer, and those of the captain and first officer of the foreign vessel. This packet shall remain sealed with the Commander of the Russian vessel until their arrival at the port of St. Peter and Paul, where it shall be deposited in the Court as mentioned in § 33. Besides this, everything else must be sealed by the Russian officer and the foreign captain that is not requisite for the continuation of the voyage to the port of St. Peter and Paul, excepting the effects for immediate and sole use of the ship's crew, which shall not be withheld from them.

§ 28. Having thus fixed all means of precaution, the officer sent to arrest the foreign vessel shall make instantly his report to his Chief, and await his orders.

§ 29. Thus, should, by any cause stated in the 2nd, 11th, 12th, and 21st sections of these Regulations, a foreign vessel be subjected to confiscation in any port near the Settlement of the Russian-American Company, the Commander of that Settlement is obliged either to ask the assistance of the Russian man-of-war, if there be any, and the Commander of which, on receipt of a written request, is obliged to arrest the vessel, and use all the precautions prescribed in the foregoing Article, or, if there be no Russian man-of-war in the harbour or its neighbourhood, and the Commander of the Settlement find that he and his people can arrest the vessel by themselves, he then is to act according to the 26th, 27th, and 28th section, and putting ashore the captain, and every means of getting the vessel away, he must endeavour as soon as possible to give information of this event either to the Governor of the Colonies of the Russian-American Company or the Commander of the Imperial man-of-war, if it be known where she lie.

§ 30. When, in consequence of such a report, the Governor of the Colonies shall send the Company's vessel, or a Government vessel arriving, then the Commander of the place shall deliver up the vessel seized, and all belonging to her, and shall report respecting his reasons for confiscating the vessel.

§ 31. The commander of the vessel, taking charge of the seizure per inventory, shall examine immediately into all circumstances mentioned, and compare it with the accounts of the Commander of the Settlement, who will give every elucidation required.

§ 32. All vessels detained by Russian men-of-war are ordered by these Regulations to be brought to the port of St. Peter and Paul, where the sentence is to be passed on them by a Court established for adjudging such cases.

§ 33. This Court, under the presidency of the Commander of Kamtchatka,
9 shall consist of the three Senior Officers under him, and of the Commissioner of the Russian-American Company.

§ 34. As soon as a Russian vessel, bringing into the port of St. Peter and Paul a foreign vessel arrested by her, has come to an anchor in the place assigned her, the commander of her is immediately to repair to the Commander of Kamtchatka, stating briefly what vessel he had brought in, the number of the crew, and the sick, specifying their diseases, and reporting likewise whether the vessel has sufficient victuals, and what goods, guns, and other arms, powder, &c., are on board.

§ 35. The Commander of Kamtchatka, on receiving this report, will order two officers and a sufficient number of men on board the captured vessel.

§ 36. These two officers, together with the officers who brought in the detained ship, when on board, are to summon the master and two of his mates or men in command next to him, inspect all the seals put on the vessel, and then, taking them off, begin immediately to make an accurate list of all the effects belonging to the vessel.

§ 37. This list is to be signed by all the officers on both sides, who were present in drawing it up. The Commander of Kamtchatka is to use all possible endeavours to secure from embezzlement or damage all effects belonging to the detained vessel.

§ 38. The crew of the vessel is then to be sent ashore to such places as shall be appointed by the Commander of Kamtchatka, and remain there until the close of the investigation.

§ 39. The Commander of the Russian vessel is obliged to, in the course of two days after his arrival at the port of St. Peter and Paul to make a minute representation to the Commander of Kamtchatka of all that shall have happened at the detention of the foreign vessel brought in by him, and to deliver said vessel, together with the sealed paquet containing her papers, expressed in § 27.

§ 40. If the Russian vessel that brought into the port of St. Peter and Paul a foreign vessel, cannot for reasons remain there until the close of the investigation, but be obliged to proceed to sea in a very short time, the Commander, in order not to detain her, shall use all possible dispatch by bringing forward the investigation of such points as may require the presence of the Russian vessel.

§ 41. Having settled everything on board the arrested vessel and landed the crew, the Court immediately shall open the session, and endeavour to ascertain as soon as possible the solution of the inquiry, whether the vessel be lawfully arrested or not.

§ 42. In order to ascertain this, the following proofs shall be substantiated:

1. That the vessel was met with within the boundaries prescribed in § 2 of these Regulations, and that her having been within such limits was not occasioned by reasons stated in § 3.

2. That the vessel is a lawful prize by virtue of the §§ 2, 11, 12, 14, and 21 of these Regulations, and the § of the Instructions to the Commander of the Russian man-of-war.

§ 43. In order to decide either case, the Court is to inspect all documents presented, and tracing on one part all proofs of guilt, and on the other, all doubts which might clear the foreign vessel, summon the Commanding officer of the Russian vessel to give all additional information deemed needful, and completing thus all circumstances condemning the foreign vessel, the Court shall draw up a clear statement of the reason of her condemnation.

§ 44. Should the Court, in making out said statement, find that the foreign vessel has been arrested without sufficient cause, said Court on passing sentence is to determine the damage suffered by such detention, and to furnish both parties with a certified copy of this resolution.

§ 45. In the course of two days, both parties shall declare whether they are satisfied with the decision of the Court or not, and in the latter case (should it happen) assign it in writing.

§ 46. Should both parties be satisfied with the decision of the Court, then the Commander of Kamtchatka is to release immediately the detained vessel, returning everything to the master according to the inventory, along with the adjudged damages, exacting them from whomsoever is to pay the same.

§ 47. If, on the contrary, the Court receive on the third day a repeal to its decision, it is bound to take that repeal into immediate consideration, and finding it just, to change its decision, if not, to confirm the same, and make it known to the parties a second time. After this no representations shall be admitted, and both parties shall be summoned before the Court which shall allow them to make their protest in writing, and will then state all the reasons why the sentence passed should be carried into execution.

§ 48. If the Court find by the indictment that the vessel has been lawfully detained, then the master of the foreign vessel, or the two eldest in command under him, shall be summoned, and the reasons of their detention made known to them, giving them a certified copy of the condemnation.

§ 49. The Court is to receive within three days, and no later, the representations of the master, and if he do not present the same within the time limited, the Court summoning him, with two of his crew, notifies that his silence is received as a mark of compliance, and that the condemnation is just.

§ 50. In this case the Court comes to its final decision, which, on the following day, is communicated to the whole crew of the foreign vessel, who shall sign, all and every one, that such sentence has been made known to them, after which the Commander of Kamtchatka is to carry the sentence of the Court into execution, as will be explained hereafter.

§ 51. Should, however, the master deliver within the time limited his protest, then the Court, examining it with all possible impartiality, shall call for all further explanations, and, having inserted the whole into the journal of the Court, shall pass a final sentence, and pronounce it, as stated in § 47.

§ 52. If, by sentence of the Court, the arrested vessel be released, and adjudged to receive damages for her detention, and if the vessel has been arrested by any of the Company's officers, and the damages are not above 5,000 roubles, the Commander of Kamtchatka shall demand immediate payment of said sum from the office of the Russian-American Company, but if the damages exceed that sum, he is to notify it to the Company's office, and give to the foreign master a certificate; but the money cannot be paid by the Company otherwise than after the inspection and Resolution of its Court of Directors. If, on the other hand, the foreign vessel has been detained unlawfully by a Russian man-of-war, the Commander of Kamtchatka is to pay the adjudged damages (not exceeding the sum of 5,000 roubles) out of any Government sum, and to report, in order to incash it from the guilty, but if the damages should exceed the sum of 5,000 roubles the Commander of Kamtchatka is to furnish a certificate for the receipt of the money after the regulation and confirmation of the Russian Government.

§ 53. The reimbursement of such damages as may have been incurred by unlawful detention shall be exacted from the Commander and all the officers of the man-of-war, who, having been called by the Commander to a council, shall have given their opinion that such a ship ought to be detained.

§ 54. As soon as a foreign ship is sentenced to be confiscated, the Commander of Kamtchatka is to make due arrangements for transporting the crew to Ochotsk, and from thence to any of the ports in the Baltic, in order to enable every one of them to reach his own country. With the confiscated ship and cargo, he is to act as with *a prize, taken in time of war.*

§ 55. After this the Commander of Kamtchatka shall order a Committee to value the vessel and her cargo. This Committee is to be composed of one member appointed by the Commander of Kamtchatka, one by the Commander of the man-of-war, and a third by the Russian-American Company.

§ 56. These Commissioners are to make up a specified list and valuation according to the following rules:

1. All provisions, rigging, iron, powder, and arms shall be put down at such prices as they cost Government there.

2. All merchandise which might be used in Kamtchatka and the Company's Colonies, and which are carried there at times from Russia, shall be valued at their prices then existing.

3. All goods which are not imported into these places from Russia, but are wanted there, shall be valued like goods brought from Russia, being the nearest to them, and in proportion to their wants.

4. All goods not in use at Kamtchatka or the Colonies shall be sent to Irkutsk and sold at public auction by the proper authorities.

§ 57. The said Commissioners shall present their valuation to the Commander of Kamtchatka for his approbation, who, in case of not finding the same exact, shall return it, with his remarks, and shall appoint other officers to inspect such articles as may appear unfairly valued.

11 § 58. If the Commissioners hereafter continue in their opinion, and the Commander of Kamtchatka find it impossible to agree thereto, he shall provisionally consent and leave the final decision to Government.

§ 59. According to this valuation the Commander of Kamtchatka shall mark, for the use of Government, all those articles which he thinks are wanted; the remainder is left at the disposal of the officers of the ship or of the Russian-American Company. The seized vessel shall be valued by the Court, and the valuation sent immediately to the Minister of the Navy, with a report whether such a vessel is wanted for Government service or not.

§ 60. The whole sum of valuation of the confiscated vessel and cargo is to be divided in the following manner. The expenses necessary to forward the ship's crew to one of the ports in the Baltic are to be deducted, and the remaining sum divided, if the vessel has been taken by the Russian-American Company's officers, and carried to the port of St. Peter and Paul by a ship of said Company, without the interference of a man-of-war, into five parts, of which one goes to the Government, and the remaining four-fifths to the American Company. If the vessel be taken in any of the Company's Settlements by the Company's officers, but brought to the port of St. Peter and Paul by a man-of-war, after deducting one-fifth for Government, two-fifths are to belong to the crew of the man-of-war, and the remaining two-fifths to the Russian-American Company, and finally, if such foreign vessel be detained by men-of-war only without the assistance of the Company's officers, then, after deducting one-fifth for Government, the remainder is left to the officers of the men-of-war.

But if a vessel be taken by the conjoint forces of a man-of-war and a Company's vessel, then the prize shall be divided between them in proportion to their strength, regulating the same according to the number of guns.

§ 61. The sum coming to the officers of the man-of-war shall be divided according to the Rules for dividing prizes in time of war. In all cases, officers who had a share in seizing foreign vessels convicted of the intention of infringing the privileges most graciously granted to the Russian-American Company, may expect to receive tokens of His Imperial Majesty's approbation, especially when, after deducting the expenses for conveying the crew, their part in the prize money should prove but trifling.

§ 62. If a foreign vessel detained by a Russian being under the command of a Russian officer should be cast away before reaching the port of St. Peter and Paul, the following principle shall be observed:

If the foreign vessel alone be lost, and the Russian accompanying her arrive at the port of St. Peter and Paul, then the Court acts according to the foregoing Rules to determine whether that vessel was lawfully seized. In this case Government takes upon itself the expenses of conveying to a port of the Baltic such of the ship's crew as were saved. But if such a vessel should not be proved to have been detained lawfully, then independant of those expenses, the ship shall be valued, and such valuation forwarded to Government for the payment of what may be deemed just; at the same time investigation shall be made on the loss of the vessel, and the officer that had the command (if saved) is to be tried according to the maritime Rules and Regulations.

§ 63. The Commander of Kamtchatka is bound to make a special Report to the Governor-General of Siberia respecting every circumstance happening to foreign vessels, annexing copies of all documents, journals, and sentences of the Court, and of all papers relating thereunto.

The original is signed:

Count D. GURIEFF,
Minister of Finances.

Edict of His Imperial Majesty, Autocrat of All the Russias.

The Directing Senate maketh known to all men:

Whereas in an Edict of His Imperial Majesty issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hand it is thus expressed:

"Observing from Reports submitted to us that the trade of our subjects on the Aleutian Islands and on the north-west coast of America appertaining unto Russia, is subjected, because of secret and illicit traffic, to oppression and impediments, and finding that the principal cause of these difficulties is the want of Rules establishing the boundaries for navigation along these coasts, and the order of naval communication as well in these places as on the whole of the eastern coast of
12 Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific Regulations, which are hereto attached.

"In forwarding these Regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution."

(Countersigned) Count D. GURIEFF,
Minister of Finances.

It is therefore decreed by the Directing Senate that His Imperial Majesty's Edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

(L. S.)

The original signed by the Directing Senate.
Printed at St. Petersburgh, in the Senate, September 7, 1821.

[Several Maps follow.]

No. 5.

Lord Stowell to Lord Melville.

GRAFTON STREET, *London, December 26, 1821.*

MY DEAR LORD: I have perused these papers, and it appears to me to be unsafe to proceed to any controversial discussion of the proposed Regulations, till it is shown that they issue from a competent authority founded upon an acknowledged title of territorial and exclusive possession of the portions of the globe to which they relate. I am myself too slightly acquainted with the facts regarding such possession (how originally acquired and how subsequently enjoyed) to be enabled to say that upon undisputed principles such a possession exists. It is perfectly clear from these Regulations that it has not hitherto been exclusive in the extent in which it is now claimed; for they are framed for the very purpose of putting an end to foreign intercourses of traffic therein, which they denominate *illicit* but which they admit existed *de facto*.

The territories claimed are of different species—islands—portions of the continent—and large portions of the sea adjoining.

I know too little of the history of their connection with either islands or continents to say with confidence that such a possession has in this case been acquired. I content myself with remarking that such possession does not appear in the opinion and practice of States to be founded exactly upon the same principles in the cases of islands and continents. In that of islands, discovery alone has usually been held sufficient to constitute a title. Not so in the case of continents. In the case of the South American Continent the Spaniards and Portuguese resorted to grants from an authority which in that age was universally respected, and continued in respect till subsequent possession had confirmed their title. But I think that it has not been generally held, and cannot be

maintained that the mere discovery of a coast gives a right to the exclusive possession of a whole extensive continent to which it belongs, and less to the seas that adjoin to a very considerable extent of distance. An undisputed exercise of sovereignty over a large tract of such a continent and for a long tract of time would be requisite for such purposes. I am too ignorant of particular facts to say how far such principles are justly applicable to such cases. I observe that by these Regulations the commerce in these islands, continents, and adjoining seas is declared to have been granted exclusively to Russian subjects; who the granter is, is not expressly declared. If, as is probable, the Autocrat of Russia is meant, the inquiry then reverts to the question respecting the foundation of such an authority, and thinking that that question must be first disposed of, I content myself with observing upon the Regulations themselves that they are carried to an extent that appears very unmeasured and insupportable.

I have, &c. (Signed) STOWELL.

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13 No. 6.

Board of Trade to Foreign Office.—(Received January 7.)

OFFICE FOR TRADE, *London, January 7, 1822.*

DEAR SIR: The inclosed seems to contain all the information that we can expect from the persons interested in the southern whale fishery; but I will try and squeeze a little more out of them if I can.

Pray let me have the inclosed back, as it is an original, or if you will return it when you have read it, I will send you a copy to-morrow.

Mr. Robinson desired me to inform the parties that the point in question was too high matter for this Committee to do anything in its Board of Trade capacity.

I am, &c. (Signed) THOS. LOCK.

[Inclosure in No. 6.]

Messrs. S. Enderby & Son and Mr. W. Mellish to Board of Trade.

PAUL'S WHARF, *London, November 27, 1821.*

MY LORDS: We most respectfully address your Lordships on the subject of an Ordinance or Ukase issued by the Emperor of Russia on the 9th October last. The 1st Article of that Ordinance in a sweeping way forbids all but subjects of Russia from commencing a whale fishery from Behring's Straits to 51° north latitude on the north-west coast of America as well as in the Aleutian Islands on the east coast of Siberia and Kurile Islands, that is to say, from Behring's Straits to the south Cape in the Island Ooroop in 45° 51′ north latitude. By this Article it appears that British ship-owners and merchants are forbidden from attempting to carry on any fishery or branch of industry, under penalties, to the north of 51° north latitude on the north west coast of America, or to the north of 45° 51′ north latitude on the eastern coasts of the North Pacific Ocean.

The 2nd Article forbids all foreign vessels touching at the Russian Establishments within the above stated limits, or even to approach them within a less distance than 100 Italian miles, the cargo to be forfeited, without it can be proved that the vessel is in want of provisions or driven in by tempestuous weather.

These two leading Articles in the Ordinance we consider as a declaration of war against the commercial and fishing of British merchants if their enterprize carries their ships to the north of the limits laid down by Russia. One British ship of 500 tons employed in the whale fishery has recently been as far as 47½° north latitude on the east coast, and found *sperma cetæ* whales so plenty that great numbers of vessels will sail immediately after the 1st January if we receive the protection we earnestly solict from our Government against this extraordinary Ordinance. Two British

ships nearly about the same time that the about ship sailed for the coast of Japan sailed for the whale fishery on the north-west coast of America we believe into Behring's Straits. We are at present unacquainted with their success.

We have no doubt if we are protected in a *fair* trade (not with China) and fishery in the North Pacific Ocean, that British enterprize will find some islands in that great ocean which may have been overlooked by the Russians and Americans, who are both attempting to shut the shipping of Great Britain out of that ocean by not allowing us to have any friendly port to resort to.

If Captain Parry is successful in effecting a passage into the North Pacific Ocean either through Behring's Straits or elsewhere, the Russian Ukase will prevent our fishing in those Straits or making any use of the discovery for commercial purposes.

Waiting your Lordship's directions for our future government, we have, &c.

(Signed) SAM. ENDERBY & SON.
WILLM. MELLISH.

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14 No. 7.

The Marquis of Londonderry to Count Lieven.

FOREIGN OFFICE, *January 18, 1822.*

The Undersigned has the honour hereby to acknowledge the note, addressed to him by Baron de Nicolai of the 12th November last, covering a copy of an Ukase issued by His Imperial Majesty the Emperor of All the Russias, and bearing date the 4th September, 1821, for various purposes, therein set forth, especially connected with the territorial rights of his Crown on the north-western coast of America, bordering upon the Pacific, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.

This document, containing Regulations of great extent and importance, both in its territorial and maritime bearings, has been considered with the utmost attention, and with those favourable sentiments which His Majesty's Government always bear towards the acts of a State which His Majesty has the satisfaction to feel himself connected, by the most intimate ties of friendship and alliance; and having been referred for the report of those high legal authorities, whose duty it is to advise His Majesty on such matters.

The Undersigned is directed, till such friendly explanations can take place between the two Governments as may obviate misunderstanding upon so delicate and important a point, to make such provisional protest against the enactments of the said Ukase as may fully serve to save the rights of His Majesty's Crown, and may protect the persons and properties of His Majesty's subjects from molestation in the exercise of their lawful callings in that quarter of the globe.

The Undersigned is commanded to acquaint Count Lieven that it being the King's constant desire to respect, and cause to be respected by his subjects in the fullest manner, the Emperor of Russia's just rights, His Majesty will be ready to enter into amicable explanations upon the interests affected by this instrument, in such manner as may be most acceptable to His Imperial Majesty.

In the meantime, upon the subject of this Ukase generally, and especially upon the two main principles of claim laid down therein, viz., an exclusive sovereignty alleged to belong to Russia over the territories therein described, as also the exclusive right of navigating and trading within the maritime limits therein set forth, his Britannic Majesty must be understood as hereby reserving all his rights, not being prepared to admit that the intercourse which is allowed on the face of this instrument to have hitherto subsisted on those coasts, and in those seas, can

be deemed to be illicit, or that the ships of friendly Powers, even supposing an unqualified sovereignty was proved to appertain to the Imperial Crown in these vast and very imperfectly occupied territories, could, by the acknowledged law of nations, be excluded from navigating within the distance of 100 Italian miles as therein laid down from the coast, the exclusive dominion of which is assumed (but, as His Majesty's Government conceive, in error) to belong to His Imperial Majesty the Emperor of All the Russias.

(Signed) LONDONDERRY.

No. 8.

The Marquis of Londonderry to Sir C. Bagot.

No. 5.] FOREIGN OFFICE, *January 19, 1822.*

SIR: With reference to your Excellency's several despatches relative to the Ukase lately issued by the Emperor of Russia under date the 4th September last, for various purposes therein set forth, especially connected with the territorial rights of his Crown on the north-western coast of America, bordering upon the Pacific, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto, I have now the honour to inclose you a copy of a note which, by His Majesty's command, I have addressed to the Count de Lieven, the Russian Ambassador in London, upon this subject; I am to desire, that in any communications which you may have with the Russian Government relative to this Ukase, you will conform yourself to the tenour of the note herewith sent.

I am, &c. (Signed) LONDONDERRY.

15

No. 9.

Mr. Stratford Canning to the Marquis of Londonderry.—(Received March 21.)

No. 11.] WASHINGTON, *February 19, 1822.*

MY LORD: I was informed this morning by Mr. Adams that the Russian Envoy has, within the last few days, communicated officially to the American Government an Ukase of the Emperor of Russia, which has lately appeared in the public prints, appropriating to the sovereignty and exclusive use of His Imperial Majesty the north-west coast of America down to the 51st parallel of latitude, together with a considerable portion of the opposite coasts of Asia, and the neighbouring seas to the extent of 100 Italian miles from any part of the coasts and intervening islands so appropriated. In apprizing me of this circumstance, Mr. Adams gave me to understand that it was not the intention of the American Cabinet to admit the claim thus notified on the part of Russia. His objection appears to lie more particularly against the exclusion of foreign vessels to so great a distance from the shore.

The note given in by M. de Poletica is confined, I believe, to a mere communication of the Emperor's Ukase, and of the periods at which

it will begin to have force, viz., from the 1st March with respect to European vessels, and from the 1st July for vessels from this country.

Mr. Adams inquired whether I had heard from your Lordship on this head, and on the supposition that a similar communication had in all probability been made by the Russian Ambassador in London, appeared desirous of learning the course which His Majesty's Government intended to adopt with reference to it. I could only reply by saying that I had not yet received any intimation from your Lordship on the subject.

I have, &c. (Signed) STRATFORD CANNING.

No. 10.

Hudson's Bay Company to the Marquis of Londonderry.—(Received March .)

HUDSON'S BAY HOUSE, *London, March 27, 1822.*

MY LORD: It has fallen under the observation of the Governor and Committee of the Hudson's Bay Company that the Russian Government have made a claim to the north-west coast of America, from Behring's Straits to the 51st degree of north latitude; and in an Imperial Ukase have prohibited foreign vessels from approaching the coast within 100 miles, under penalty of confiscation. Likewise that the American Government are claiming a very considerable extent of country bordering on the Pacific Ocean; and that a Bill is in progress in the House of Representatives for settling the Columbia and forming it into a State of the Union.

In the Report presented to the House on which this Bill is founded, the Committee state that the title of the United States to the sovereignty of the territory from the 41st degree to the completion of the 53rd degree of north latitude is unquestionable; but that, in the opinion of the Committee, the American Government have a good claim as far as 60° north latitude.

I need not remind your Lordship that a large portion of that country was discovered by British navigators, and taken possession of on behalf of Great Britain; nor of the affair of Nootka Sound, in 1789, in consequence of aggressions committed upon British subjects on that coast; but it may be necessary to state to your Lordship that the Americans had no trade with the natives until long after the British Establishments had been formed in the country to the westward of the Rocky Mountains.

In the year 1792 Sir Alexander McKenzie, then a partner in the late North-West Company, explored from the interior the country west of the Rocky Mountains, and was the first who penetrated to the Pacific Ocean. In the preceding year Captain Vancouver had surveyed the Columbia River from the mouth to the Falls, 200 miles from the sea.

For above twenty years the British fur traders have had Settlements, and the Company have an Establishment of 200 men on the Columbia River at this period, and large and valuable Establishments to the northward.

16 It was not till the year 1806 that the Americans explored this country, when an expedition was fitted out under Captains Lewis and Clarke, who proceeded to the head of the Mississourie, thence

across the Rocky Mountains to the River Columbia, and down it to the mouth, and returned by the same route. Soon after the return of these gentlemen, an American Chartered Company was established under the name of the Pacific Fur Company, who began their operations in 1810. Ships were sent and a fort built at the mouth of the Columbia. This fort was given up to the late North-West Company in the American War, when they bought of the Pacific Fur Company their whole stock-in-trade, and the country was abandoned by the Americans, and they have not since had any traders in the Columbia, or to the northward.

The fort, after the Treaty of Ghent, was demanded by the American Government as included, with other fortified places in that Treaty, although it is more properly only a trading station, and it has been delivered up, but it remains unoccupied.

By a Convention in October 1818, subsequent to the Treaty, it was agreed by the Contracting Parties that the country in question, for the purposes of trade, was to be free to the subjects of both nations for ten years.

The fur trade of Great Britain, by an Act of last Session and grant from His Majesty, is vested in the Hudson's Bay Company; I cannot, therefore, refrain from calling your Lordship's attention to this matter as of considerable importance at the present moment, and not unlikely to lead to very unpleasant occurrences at some future period, if no notice is taken of these proceedings of the Russian and American Governments, the effect of which would be to exclude British subjects from the northwest coast of America, and a valuable trade in the interior.

I have, &c.

(Signed) J. H. PELLY, *Deputy Governor.*

No. 11.

Earl Bathurst to the Duke of Wellington.

DOWNING STREET, *September 14, 1822.*

MY LORD: I have the honour to transmit, for your Grace's guidance in the execution of the commission with which His Majesty has been pleased to intrust you in consequence of the lamented death of the Marquis of Londonderry, a Memorandum which was originally drawn up by his Lordship, and, having been approved by His Majesty's confidential servant, was submitted to His Majesty's Government and received His Majesty's sanction.

I am, &c. (Signed) BATHURST.

[Inclosure in No. 11.]

Memorandum.

The subject-matter upon which the allied Ministers will have to deliberate at the approaching meeting at Vienna may be classed under the following heads:

1. The Turkish question, internal and external.
2. The Spanish question, European and American.
3. The Affairs of Italy.

As British points, the Slave Trade, the Austrian Debt, and the late Russian Ukase will demand attention.

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Upon the Russian Ukase the objections to its enactment, in principle, are set forth in the note addressed to Count Lieven in reply to his communication of the Ukase to the British Government. The duty of the British Plenipotentiary will be to bring the Russian Cabinet to some distinct explanation as to the mode in which the differences of opinion on this instrument may be reconciled.

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17 No. 12.

Memorandum by the Duke of Wellington.

SEPTEMBER 11, 1822.

In the course of a conversation which I had yesterday with Count Lieven, he informed me that he had been directed to give verbal explanations of the Ukase respecting the north-west coast of America. These explanations went, he said, to this, that the Emperor did not propose to carry into execution the Ukase in its extended sense. That His Imperial Majesty's ships had been directed to cruize at the shortest possible distance from the shore in order to supply the natives with arms and ammunition, and in order to warn all vessels that that was His Imperial Majesty's dominion; and that His Imperial Majesty had besides given directions to his Minister in the United States to agree upon a Treaty of Limits with the United States.

It appears here that this explanation when given will be very little satisfactory; and that at best it is only a verbal explanation of a written and published Ukase, the terms of which, however contrary to the law of nations and protested against by us, must be the rule for our merchants and traders till we can obtain some document in writing which will alter it. This is the sense in which I propose to act at Vienna upon this part of the instructions, and it is desirable that I should be informed whether we have any claim to territory on the north-west coast of America, and what are the opinions and reasonings of the civilians upon the question of *dominion on the sea.*

The Russian Ministers will very probably assimilate their claim of dominion as thus verbally explained to the claim which we are supposed to have of dominion in the Narrow Seas, which it was attempted to bring into discussion at the Congress at Vienna in 1815. We avoided the discussion, and explained the practice of giving and receiving salutes prevailing in the British navy in a manner satisfactory to all parties. But we never relinquished the claim of the dominion.

On the other hand, we have not recently claimed the dominion in a Proclamation, and warned others not to approach it.

SEPTEMBER 16, 1822.

Since writing the above I have again seen Count Lieven on this subject, and he has informed me that the Emperor has authorized his Minister in the United States to treat upon limits in North America with the United States. He gave me this instruction confidentially, and in order that if we had any claim to territory on the north-west coast of America we might bring it forward, so as not to be shut out by any agreement made between Russia and the United States.

It is desirable, therefore, that I should be informed upon this subject as soon as may be convenient.

No. 13.

Hudson's Bay Company to Mr. George Canning.—(Received September .)

HUDSON'S BAY HOUSE, *London, September 25, 1822.*

SIR: I have the honour to address you, on behalf of the Hudson's Bay Company, upon the subject of the claim set up by Russia to that part of the north-west coast of America which is to the north of the 51st degree north latitude.

It appears to the Directors of this Company that the claim of Russia is not well founded, and as the interests of the Company and of the British fur trade would be essentially and greatly injured, should the claims of Russia be admitted by the British Government, I feel it to be incumbent upon me, in addition to the representations which I have already made upon this subject, to state briefly the progress of the British fur trade in that part of North America, and to apprize you of the forts or trading stations, situated to the north of the 51st degree north latitude, which are now occupied by the traders and servants of this Company.

In the year 1793 Sir Alexander McKenzie crossed the Rocky Mountains in 56° 30′ north latitude, and penetrated to the Pacific Ocean in latitude 52° 20′. Immediately after his return the British fur traders sent expeditions and established trading posts in the country to the westward of the Rocky Mountains. New trading stations have been gradually formed, as the country was more fully explored, and until 1821 the whole trade of an extensive district named New Caledonia, and extending from the mouth of Fraser's River, situated about 49° north latitude to about 60° north latitude, was carried on by the British North-West Company.

The partnership of the British North-West Company being then about to expire, arrangements were made in 1821 by which the Hudson's Bay Company acquired possession of all the forts and trading stations of that Association situated in New Caledonia, as well as in other parts of British North America.

The principal forts or permanent and centrical trading stations in New Caledonia, now occupied by the traders and servants of this Company, are situated at the Rocky Mountain portage in 56° north latitude and 121° west longitude; on Stewart's Lake, in 54° 30′ north latitude and 125° west longitude; on McLeod's Lake in 55° north latitude and 124° west longitude, and on Fraser's Lake in 55° degrees north latitude and about 127° west longitude, and there are several minor trading posts, the situation of which are occasionally changed according to local circumstances. By these means an extensive trade is carried on with all those Indian tribes which inhabit the country from about 60° north latitude as far south as the mouth of Fraser's River, which is in about 49° north latitude, and between the Rocky Mountains and the sea.

The British fur traders have never met with the traders of any other nation in that country, and it does not appear that any part of it has ever been occupied by the subjects of Russia or of any other foreign Power.

All the considerable rivers which fall into the Pacific Ocean in this extent of coast have not yet been sufficiently explored to ascertain whether any of them are navigable with large boats, and have safe harbours at their discharge into the sea; the furs procured in that country have therefore been brought to England down the Peace River and through the Hudson's Bay Company's territories. But it is probable

that, in such an extent of coast, some practicable communication with the sea will be discovered which would save the expensive transport of goods and furs through the interior of America.

A direct communciation by sea is found to be advantageous in the country to the south of New Caledonia situated on the various branches of the Columbia River, where this Company have extensive trading Establishments extending to the head waters of that river in the Rocky Mountains, and the same advantages would be derived from a direct communication by sea with New Caledonia.

This Company has trading Establishments also in McKenzie's River, which falls into the Frozen Ocean as far north as 66° 30′ north latitude, which carry on a trade with those Indians who inhabit the country to the west of that river and to the north of 60° of north latitude, and who, from the nature of the country, can communicate more easily with McKenzie's River than with the trading posts in New Caledonia.

I have thus given a brief outline of the British trading stations on the north-west coast of America, and I feel confident that His Majesty's Government will take the proper measures for protecting the interests of this Company and of the British fur trade in that quarter of the world.

I have, &c.

(Signed) J. H. PELLY, *Deputy Governor.*

[Inclosure in No. 13.]

Memorandum.

The grounds on which the Russian Government claim the whole north-west coast of America from Behring's Straits to the 51st degree north latitude, are detailed in a correspondence which took place at Washington in the months of February, March, and April, 1822, between the American Government and the Russian Ambassador, the Chevalier Pierre de Politica.

19 1. The discoveries made by the Russians during the reign of Peter the First.

It does not appear that any discoveries were made during the reign . . . though this Monarch formed many plans for discoveries.

The Empress Catherine, however, in conformity to her deceased husband's instructions, ordered an expedition to be fitted out in 1728, and gave the command of it to Vitus Behring, a Dane by birth, who ascertained the separation of the two continents as high as 67° on the coast of Asia; in the following year he made an attempt to discover the coast of America, but was unsuccessful, and from this period no attempts at discovery were made till the year 1741. (See Coxe's account of Russian discoveries.)

2. The discoveries made by Behring and Tchiricoff in 1741, during the reign of the Empress Anne and the Map published by the Imperial Academy in 1758, the result of the labours of the Academicians who accompanied the expedition, viz., Müller, Steller, Fischer, De l'Isle de la Crayere, Krasilnicoff, &c.

Müller, who gives an account of this voyage, and who is the authority on which the Russian Government relies, states, "That Behring came in sight of land in 58° 28′ north latitude, and Tchiricoff in latitude 56. That Behring did not land on the mainland . . . but sent a boat on shore for water on a large island."

ıat Cape or Mount St. Elias was ed by Behring.

That he named a point of land which projects into the sea Cape St. Elias, but that he never landed or took possession.

Müller further states, which Steller confirms, "That on the 21st July, leaving their anchorage place between two islands . . . on one of which a boat's crew with Steller had landed, they set sail and attempted to trace the coast to 65°, but their course was so interrupted by islands, they could proceed no further north.

From Müller's account it is doubtful whether they ever reached America; they certainly never landed on the mainland or took possession.

Steller likewise states he landed on islands but never on the mainland.

Behring died in this expedition on an island near Kamschatka, which is now called after him, and his vessel was wrecked.

Müller's account of Tchiricoff is that he made the land in 56°, that he sent ten men in a boat for water, but never returning, it is supposed they were massacred; six more were dispatched in another boat to look after their comrades who probably shared the same fate.

On the 27th July, Tchirikoff took his departure for Kamschatka, and arrived on the 9th October in Avatka Bay.

hat Tchirikoff pushed his discoveries ar as 49° north.

The famous Astronomer De l'Isle was with Tchirikoff, and it is not probable that the observations he took he would have made a mistake of 7 degrees. (The celebrated Geographer, Guillaume De l'Isle, from the papers of his brother De l'Isle de la Crayere, who was with the expedition, gives the latitude 55° 36′.)

The Map alluded to was published under the direction of Müller, and which, as will be seen, places Cape St. Elias about 59°, and the coast discovered by Tchirikoff in about 56°. (This Map is in the history of Kamschatka). On reference to the Maps according to Cooke, Vancouver, &c., it will be seen that the coast where Tchirikoff made the land in 56°, consists entirely of islands, and that 49° is Nootka Sound.

Müller in his Map marks the coast as without islands, proving that Tchirikoff mistook the islands for the mainland.

Tchirikoff does not appear to have again visited the north-west coast of America. (See history of Kamschatka.)

The discoveries by private individ- ı to 1743.

These discoveries were entirely to the northern Archipelago so-called, named the Fox and Aleutian Islands.

The voyages from 1741 to 1778 were entirely confined to the Fox and Aleutian Islands, &c., not at all extending to the north-west coast of America.

In 1763 Russian Establishments ex- led as far as the Island of Kodiak or htak. In 1778, Cook found them at ıalashka and some Russian inscrip- ıs at Kodiak.

Ounalashka and Kodiak are both islands unconnected with the north-west coast, but Captain Cook had discovered and taken possession in the name of His Britannic Majesty of the whole coast, which the Russian Government claims. Captain Cook made the coast in 49° 29′.

Vancouver saw the Russian Establishment in the Bay of Kinai.

In fine Captain Meares, Portlock, La Peyrouse, unanimously attest the existence of Russian Establishments in these latitudes.

Vancouver was visited by Russians in Prince William's Sound, which is in upwards of 60°.

Meares and Portlock saw Russians in Cook's Inlet. Captain Meares commanded the "Nootka" and Captain Portlock the "King George." . . . ships engaged in the fur trade between Canton and the north-west coast from 1780 to 1790, but it cannot be found where Peyrouse attests their existence, though in the 234th page of the 2nd vol. of the Paris edition of his voyages, published 1798, there is the following sentence: "J'ai trouvé parmi leurs bijoux des morceaux d'ambre jaune ou de semin, mais j'ignore si c'est une production de leur pays, ou si comme le fer, ils l'ont reçu de l'ancien continent par leur communication indirecte avec les Russes."

On a reference to Coxe's Russian discoveries, it is evident that the whole of these expeditions were confined to the Fox and Aleutian Islands, and from the order in which the names are placed it would appear that M. de Poletica took his information from this work.

5. If the Imperial Government had at the time published the discoveries made by the Russian navigators after Behring and Tchirikoff, viz., Chodiloff, Serebrianicoff, Krassilnicoff, Paycoff, Poushcaroff, Lazeriff, Medwedeff, Solvnieff, Lewasheff, Krimstin, and others, no one could refuse to Russia the right of first discovery, nor could even any one deny her of first occupation.

21 6. That Don Jose Martinez in 1789 did not remove the Russian colonists from Nootka, and that the Spaniards acknowledged, by the Report of Captain Malespina, that they had no right beyond Cape Blanc in latitude 42° 50′.

Neither Cook or Vancouver mention these settlers. So little did the Court of Madrid know of settlers at Nootka that in its State Paper to Mr. Fitzherbert it mentions that they were informed that Russia intended forming Establishments. (See Annual Register 1790, pp. 287 to 305.)

7. That in 1799 the Emperor Paul I granted to the present American Fur Company its first Charter; he gave it the exclusive possession of the north-west coast of America, which belonged to Russia from the 55° north latitude to Behring's Straits.

He permitted them to extend their discoveries to the south, and there to form Establishments, provided they did not encroach upon the territory occupied by other Powers.

This act when made public excited no claim on the part of other Cabinets, not even on the part of Madrid, which confirms that it did not extend its pretensions to the 60th degree.

The Court of Madrid had in the year 1790 claimed to latitude 61°, and quotes in a letter from the Spanish to the French Minister the 16th June, 1890, an admission of Russia to the claim of Spain to the 61° north latitude, though perhaps a little equivocal.

When by the Treaty of Washington the American Government acquired all the right of territory which belonged to Spain beyond 42°, no northern boundary was named, because Spain could not define her right.

See J. Q. Adams' letter in answer to 30th March, 1822.

8. The 51° being only the mean point between the Russian Establishments of New Archangel in 57° and the American Colony which is found at the mouth of the Columbia in 46°.

It is not at all defined that the mouth of the Columbia belongs to America. By a Convention with the United States, January 1819, the country to the westward of the Rocky Mountains is left common to both nations for ten years.

9. That in 1789 the Spanish packet "St. Charles" found in the latitude of 48 and 49 a Russian Colony of twenty families, which were the descendants of the companions of Tchiricoff.

This Establishment, even if authentic that they were the descendants of Tchiricoff, would be on Nootka, an Island, and therefore giving no right of possession to the mainland. It is singular, if they were the descendants of Tchiricoff, that neither Krusenstern or Kotzebue mention the circumstance, and that neither Vancouver or Cook, or any traders have noticed it.

No. 14.

Mr. G. Canning to the Duke of Wellington.

No. 6.] FOREIGN OFFICE, *September 27, 1822.*

MY LORD DUKE: Your Grace is already in possession of all that has passed both here and at St. Petersburgh on the subject of the issue in September of last year, by the Emperor of Russia, of an Ukase indirectly asserting an exclusive right of sovereignty from Behring's Straits to the 51st degree of north latitude on the west coast of America, and to the 45th degree north on the opposite coast of Asia, and (as a qualified exercise of that right) prohibiting all foreign ships, under pain of confiscation, from approaching within 100 Italian miles of those coasts.

22 The Ukase having been communicated by Baron Nicolai, the Russian Chargé d' Affaires at this Court, to His Majesty's Government, was forthwith submitted to the legal authorities whose duty it is to advise His Majesty on such matters; and a note was in consequence addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, and also communicated to His Majesty's Ambassador at St. Petersburgh, protesting against the enactments of the said Ukase, and requesting such amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects.

As such explanations will probably be offered to your Grace during the Conferences about to take place at Vienna, I hasten to signify to you the King's commands as to the language which you will hold on the part of His Majesty upon this subject.

The opinions given in November and December last by Lord Stowell and by His Majesty's Advocate-General (copies of which are already in your possession) will furnish you with the best legal arguments in opposition to the pretensions put forward in the Russian Ukase; and as, in both these opinions, much stress is very properly laid upon the state of actual occupation of the territories claimed by Russia, and the different periods of time at which they were so occupied, I have obtained from the Governor of the principal Company of His Majesty's subjects trading in that part of the world the information which your Grace will find in the inclosed papers. That information will enable you sufficiently to prove to the Russian Ministers, not only that the point of prior discovery may be fairly disputed with Russia, but that the much more certain title of actual occupation by the agents and the trading servants of the Hudson's Bay Company extends at this moment to many degrees of higher latitude on the north-west coast of America than is claimed as the territory of Russia by the Ukase in question.

Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is in the opinion of the most esteemed writers on public law to be established only by practical use.

With respect to the other points in the Ukase which have the effect of extending the territorial rights of Russia over the adjacent seas to the unprecedented distance of 100 miles from the line of coast, and of closing a hitherto unobstructed passage, at the present moment the object of important discoveries for the promotion of general commerce and navigation, these pretensions are considered by the best legal authorities as positive innovations on the right of navigation. As such, they can receive no explanation from further discussion, nor can by possibility be justified. Common usage, which has obtained the force of law, has indeed assigned to coasts and shores, an accessorial boundary to a short limited distance for purposes of protection and general convenience, in no manner interfering with the rights of others, and not obstructing the freedom of general commerce and navigation.

But this important qualification the extent of the present claim entirely excludes, and when such a prohibition is, as in the present case, applied to a long line of coasts, and also to intermediate islands in remote seas where navigation is beset with innumerable and unforeseen difficulties, and where the principal employment of the fisheries must be pursued under circumstances which are incompatible with the prescribed courses, all particular considerations concur, in an especial manner, with the general principle, in repelling such a pretension as an encroachment on the freedom of navigation, and the unalienable rights of all nations.

I have indeed the satisfaction to believe, from a conference which I have had with Count Lieven on this matter,—that upon these two points,—the attempt to shut up the passage altogether, and the claim of exclusive dominion to so enormous a distance from the coast,—the Russian Government are prepared entirely to waive their pretensions. The only effort that has been made to justify the latter claim was by reference to an Article in the Treaty of Utrecht which assigns 30 leagues from the coast as the distance of prohibition. But to this argument it is sufficient to answer, that the assumption of such a space was, in the instance quoted, by stipulation in a Treaty, and one to which, therefore, the party to be affected by it had (whether wisely or not) given its deliberate consent. No inference could be drawn from that transaction in favour of a claim by authority against all the world.

I have little doubt, therefore, but that the public notification of the claim to consider the portions of the ocean included between the adjoining coasts of America and the Russian Empire as a *mare clausum*, and to extend the exclusive territorial jurisdiction of Russia to 100 Italian miles from the coast, will be publicly recalled, and I have
23 the King's commands to instruct your Grace further to require of the Russian Minister (on the ground of the facts and reasonings furnished in their despatch and its inclosures) that such a portion of territory alone shall be defined as belonging to Russia as shall not interfere with the rights and actual possessions of Her Majesty's subjects in North America.

I am, &c. (Signed) GEORGE CANNING.

No. 15.

The Duke of Wellington to Mr. G. Canning.—(Received December 9.)

No. 38.] VERONA, *November 28, 1822.*

SIR: I inclose the copy of a Confidential Memorandum which I gave to Count Nesselrode on the 17th October, regarding the Russian Ukase, and the copy of his answer.

I have had one or two discussions with Count Lieven upon this paper, to which I object as not enabling His Majesty's Government to found upon it any negotiation to settle the questions arising out of the Ukase, which discussions have not got the better of these difficulties; and I inclose to you the copy of a letter which I have written to Count Lieven, explaining my objections to the Russian "Mémoire Confidentiel."

This question then stands exactly where it did. I have not been able to do anything upon it.

I have, &c. (Signed) WELLINGTON.

[Inclosure 1 in No. 15.]

Memorandum.

In the month of September 1821 His Imperial Majesty the Emperor of Russia issued an Ukase, asserting the existence in the Crown of Russia of an exclusive right of sovereignty in the countries extending from Behring's Straits to the 51st degree of north latitude on the west coast of America, and to the 45th degree of north latitude on the opposite coast of Asia, and as a qualified exercise of that right of sovereignty, prohibiting all foreign vessels from approaching within 100 Italian miles of those coasts.

After this Ukase had been submitted by the King's Government to those legal authorities whose duty it is to advise His Majesty on such matters, a note was addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, protesting against the enactments of this Ukase, and requesting such amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown, and the interests of his subjects.

We object, first, to the claim of sovereignty as set forth in this Ukase; and, secondly, to the mode in which it is exercised.

The best writers on the laws of nations do not attribute the exclusive sovereignty, particularly of continents, to those who have first discovered them, and although we might, on good grounds, dispute with Russia the priority of discovery of these continents, we contend that the much more easily proved, more conclusive, and more certain title of occupation and use, ought to decide the claim of sovereignty.

Now we can prove that the English North-West Company and the Hudson's Bay Company have for many years established forts and other trading stations in a country called New Caledonia, situated to the west of a range of mountains called Rocky Mountains, and extending along the shores of the Pacific Ocean from latitude 49° to latitude 60°.

This Company likewise possess Factories and other Establishments on Mackenzie's River, which falls into the Frozen Ocean as far north as latitude 66° 30′, from whence they carry on trade with the Indians inhabiting the countries to the west of that river, and who, from the nature of the country, can communicate with Mackenzie's River with more facility than they can with the ports in New Caledonia.

Thus, in opposition to the claim founded on discovery, the priority of which,
24 however, we conceive we might fairly dispute, we have the indisputable claim of occupancy and use for a series of years, which all the best writers on the laws of nations admit is the best founded claim to a territory of this description.

Objecting as we do to this claim of exclusive sovereignty on the part of Russia, I might save myself the trouble of discussing the particular mode of its exercise as set forth in this Ukase, but we object to the mode in which the sovereignty is proposed to be exercised under this Ukase, not less than we do the claim of it.

We cannot admit the right of any Power possessing the sovereignty of a country to exclude the vessels of others from the seas on its coasts to the distance of 100 Italian miles.

We must object likewise to other arrangements contained in the said Ukase, conveying to private merchant-ships the right to search in time of peace, &c., which are quite contrary to the laws and usages of nations, and to the practice of modern times.

VERONA, *October 17, 1822.*

[Inclosure 2 in No. 15.]

Mémoire Confidentiel.

Le Cabinet de Russie a pris en mûre considération le Mémoire Confidentiel que M. le Duc de Wellington lui a remis le 17 Octobre dernier relativement aux mesures adoptées par Sa Majesté l'Empereur sous la date du 4 (16) Septembre, 1821, pour déterminer l'étendue des possessions Russes sur la côte nord-ouest de l'Amérique, et pour interdire aux vaisseaux étrangers l'approche de ces possessions jusqu'à la distance de 100 milles d'Italie.

Les ouvertures faites à ce sujet au Gouvernement de Sa Majesté Britannique par le Comte de Lieven au moment où cet Ambassadeur alloit quitter Londres, doivent déjà avoir prouvé que l'opinion que le Cabinet de Saint-James avoit conçue des mesures dont il s'agit, n'étoit point fondée sur une appréciation entièrement exacte des vues de Sa Majesté Impériale.

La Russie est loin de méconnoître que l'usage et l'occupation constituent le plus solide des titres d'après lesquels un État puisse réclamer des droits de souveraineté sur une portion quelconque du continent. La Russie est plus loin encore d'avoir voulu outrepasser arbitrairement les limites que ce titre assigne à ses domaines sur la côte nord-ouest de l'Amérique, ou exiger en principe général de droit maritime les règles qu'une nécessité purement locale l'avoit obligée de poser pour la navigation étrangère dans le voisinage de la partie de cette côte qui lui appartient.

C'étoit au contraire parce qu'elle regardoit ces droits de souveraineté comme légitimes et parce que des considérations impérieuses tenant à l'existence même du commerce qu'elle fait dans les parages de la côte nord-ouest de l'Amérique, la forçoient à établir un système de précautions devenues indispensables, qu'elle a fait paroître l'Ukase du 4 (16) Septembre, 1821.

La Russie seroit toujours prête à faire part des motifs qui en justifient ses dispositions mais pour le moment elle se bornera aux observations suivantes.

M. le Duc de Wellington affirme dans son Mémoire Confidentiel du 17 Octobre que des Établissemens Anglois, appartenant à deux Compagnies: celle de la Baye de Hudson et celle du Nord-Ouest, se sont formés dans une contrée appelée la Nouvelle-Calédonie, qui s'étend le long de la côte de l'Océan Pacifique, depuis le 49° jusqu'au 60° de latitude septentrionale.

La Russie ne parlera point des Établissemens qui peuvent exister entre le 49 et 51 parallèle, mais quant aux autres, elle n'hésite pas de convenir qu'elle en ignore jusqu'à présent l'existence, pour autant au moins qu'ils toucheroient l'Océan Pacifique.

Les Cartes Angloises même les plus récentes et les plus détaillées n'indiquent absolument aucune des stations de commerce mentionnées dans le Mémoire du 17 Octobre, sur la côte même de l'Amérique, entre le 51° et 60° de latitude septentrionale.

D'ailleurs, depuis les expéditions de Behring et de Tchiricoff, c'est-à-dire, depuis près d'un siècle, des Établissemens Russes ont pris, à partir du 60°, une extension progressive, qui dès l'année 1799 les avoit fait parvenir jusqu'au 55 parallèle, comme le porte la première Charte de la Compagnie Russe-Américaine, Charte qui a reçu dans le tems une publicité officielle et qui n'a motivé aucune protestation de la part de l'Angleterre.

Cette même Charte accordoit à la Compagnie Russe le droit de porter ses Établissemens vers le midi au delà du 55° de latitude septentrionale, pourvû que de tels accroissemens de territoire ne pussent donner motif de réclamation à aucune Puissance étrangère.

L'Angleterre n'a pas non plus protesté contre cette disposition, elle n'a pas même réclamé contre les nouveaux Établissemens que la Compagnie Russe-Américaine a pu former au sud du 55°, en vertu de ce privilège.

La Russie étoit donc pleinement autorisée à profiter d'un consentement, qui, pour être tacite, n'en étoit pas moins solennel, et à déterminer pour bornes de ses domaines le degré de latitude, jusqu'auquel la Compagnie Russe avoit étendu ses opérations depuis 1799.

Quoiqu'il en soit et quelque force que ces circonstances prêtent aux titres de la Russie, Sa Majesté Impériale ne déviera point dans cette conjoncture du système habituel de sa politique.

Le premier de ses vœux sera toujours de prévenir toute discussion et de consolider de plus en plus les rapports d'amitié et de parfaite intelligence qu'elle se félicite d'entretenir avec la Grande-Bretagne.

En conséquence l'Empereur a chargé son Cabinet de déclarer à M. le Duc de Wellington (sans que cette déclaration puisse préjudicier en rien à ses droits, si elle n'étoit point acceptée) qu'il est prêt à fixer, au moyen d'une négociation amicale et sur la base des convenances mutuelles, les degrés de latitude et de longitude que les deux Puissances regarderont comme dernières limites de leurs possessions et de leurs Établissemens sur la côte nord-ouest de l'Amérique.

Sa Majesté Impériale se plaît à croire que cette négociation pourra se terminer sans difficulté à la satisfaction réciproque des deux Etats, et le Cabinet de Russie peut assurer dès à présent M. le Duc de Wellington que les mesures de précaution et de surveillance qui seront prises alors sur la partie Russe de la côte d'Amérique, se trouveront entièrement conformes aux droits dérivant de sa souveraineté, ainsi qu'aux usages établis entre nations, et qu'aucune plainte légitime ne pourra s'élever contre elles.

VÉRONE, *le 11 (23) Novembre, 1822.*

[Inclosure 3 in No. 15.]

The Duke of Wellington to Count Lieven.

VERONA, *November 28, 1822.*

M. LE COMTE: Having considered the paper which your Excellency gave me last night on the part of his Excellency Count Nesselrode on the subject of our discussions on the Russian Ukase, I must inform you that I cannot consent, on the part of my Government, to found on that paper the negotiations for the settlement of the question which has arisen between the two Governments on this subject.

We object to the Ukase on the grounds:

1. That His Imperial Majesty assumes thereby an exclusive sovereignty in North America of which we are not prepared to acknowledge the existence or the extent. Upon this point, however, the Memorandum of Count Nesselrode does afford the means of negotiation, and my Government will be ready to discuss it either in London or St. Petersburgh whenever the state of the discussions on the other question arising out of the Ukase will allow of the discussion.

The second ground on which we object to the Ukase is that His Imperial Majesty thereby excludes from a certain considerable extent of the open sea vessels of other nations.

We contend that the assumption of this power is contrary to the law of nations, and we cannot found a negotiation upon a paper in which it is again broadly asserted. We contend that no Power whatever can exclude another from the use of the open sea. A Power can exclude itself from the navigation of a certain coast, sea, &c., by its own act or engagement, but it cannot by right be excluded by another. This we consider as the law of nations, and we cannot negotiate upon a paper in which a right is asserted inconsistent with this principle.

26 I think, therefore, that the best mode of proceeding would be that you should state your readiness to negotiate upon the whole subject, without restating the objectionable principle of the Ukase, which we cannot admit.

Ever yours, &c. (Signed) WELLINGTON.

No. 16.

The Duke of Wellington to Mr. G. Canning.—(Received December 9.)

No. 44.] VERONA, *November 29, 1822.*

SIR: Since I wrote to you yesterday I have had another conversation with the Russian Ministers regarding the Ukase.

It is now settled that both the Memorandums which I inclosed to you should be considered as *non avenus*, and the Russian Ambassador in London is to address you a note in answer to that of the late Lord Londonderry, assuring you of the desire of the Emperor to negotiate with you upon the whole question of the Emperor's claims in North

America, reserving them all if the result of the negotiation should not be satisfactory to both parties.

This note will then put this matter in a train of negotiation, which is what was wished.

I have, &c. . (Signed) WELLINGTON.

No. 17.

Mr. S. Canning to Earl Bathurst.—(Received ———.)

[Separate.—Extract.]

WASHINGTON, *November 21, 1822.*

Being directed by my instructions to transmit to His Majesty's Government whatever information I may happen to obtain respecting the proposed occupation of the territory adjacent to the Columbia River, I have endeavoured not to lose sight of this subject, the rather as an effort will probably be made in the course of the approaching Session to bring it under the immediate deliberation of Congress. The correspondence which, some months ago, took place between M. Poletica, the late Russian Minister at Washington, and Mr. Adams, relative to another portion of the north-west coast of America, has contributed to turn the attention of the public towards the same quarter. On the questions involved in this correspondence an interesting article has lately appeared in the "North American Review," a work of merit published periodically at Boston. The argument, bottomed on facts, which the reviewer maintains in opposition to the territorial pretensions of Russia, would seem, as far as the title of that Power is concerned, to be of a very conclusive description. As the article is rather long, I have made extracts of the material parts for your Lordship's more convenient perusal. They will be found in the Inclosure (A).

[Inclosure in No. 17.]

A.] *Extract from the "North American Review."*

The third voyage of Cook having made us acquainted with countries of which little was before known, several enterprising individuals, allured by the prospect of a profitable traffic with the natives, engaged in voyages to the north-west coast as early as 1784. The citizens of the United States, then just recovering from the entire prostration of their commerce by the revolutionary war, and possessing more enterprise than capital, were not slow in perceiving the benefits likely to result from the participation in a branch of trade where industry and perseverance could be substituted for capital.

In 1787, two vessels were fitted out in the port of Boston, the "Columbia," of 300 tons, and the "Washington," of 100 tons burthen; the former commanded
27 by Mr. John Kendrick, the latter by Mr. Robert Grey, since known as the first navigator who entered the River Columbia. Other vessels followed shortly after, and those intrusted with the management of these voyages soon acquired the necessary local knowlege to insure a successful competition with the traders of other nations (mostly English) who had preceded them. The habits and ordinary pursuits of the New Englanders qualified them in a peculiar manner for carrying on this trade, and the embarrassed state of Europe, combined with other circumstances, gave them, in the course of a few years, almost a monopoly of the most lucrative part of it.

In 1801, which was, perhaps, the most flourishing period of the trade, there were sixteen ships on the north-west coast, fifteen of which were Americans and one English. Upwards of 18,000 sea-otter skins, besides other furs, were collected for the *China* market in that year by the American vessels alone.

Since that time the trade has declined, the sea-otter having become scarce in consequence of the impolitic system pursued by the Russians, as well as by the natives, who destroy indiscriminately the old and the young of this animal, which will probably in a few years be as rarely met with on the coast of America as it is now on that of Kamtchatka and among the Aleutian Islands, where they abounded when first discovered by the Russians. There are at the present time absent from the United States fourteen vessels engaged in this trade, combined with that to the Sandwich Islands, which for several years past has been carried on to a considerable extent in sandal wood. These vessels are from 200 to 400 tons burthens, and carry from twenty-five to thirty men each, and they are usually about three years in completing a voyage. After exchanging with the natives of the coast for furs such part of their cargoes as is adapted to the wants or suited to the fancy of these people, the ships return to the Sandwich Islands, where a cargo of sandal wood is prepared, with which, and their furs, they proceed to Canton, and return to the United States with cargoes of teas, &c. The value at Canton of the furs, sandal wood, and other articles carried thither the last season, by American vessels engaged in the trade, was little short of half-a-million of dollars. When it is considered that a comparatively small capital is originally embarked, that a great part of the value arises from the employment of so much tonnage, and so many men, for the long time necessary to perform a voyage; and that Government finally derives a revenue from that portion of the proceeds which is brought home in teas, equal, at least, to the amount invested at Canton, we believe this trade will be thought too valuable to be quietly relinquished.

We have not met with any account of Tchiricoff's voyage from which the slightest inference can be drawn that he saw the American coast in the parallel of 49°, but, on the contrary, all the accounts which we have seen concur in fixing the southern limits of his *continental* researches north of 55°. The earliest account we can find is in a Memoir of Philippe Buache, read to the French Academy in 1752, and published at Paris in 1753. This Memoir is accompanied by a Chart, prepared by M. de Lisle, formerly First Professor of Astronomy in the Imperial Academy of St. Petersburgh, and brother to Delile de la Crayere, one of the Academicians who accompanied Tchiricoff. On this Chart is marked the route of that navigator from Kamtchatka to America and of his return. It appears from this that they discovered the coast of America on the 15th July, 1741, about the latitude of 55° 30′, and sent a boat, with the pilot Dementiew and ten men with orders to land. This boat not returning after several days a second was sent with four men, who shared the fate of the first, and nothing was heard of them till 1822, when they were fortunately discovered by M. de Poletica in the latitude of 48° and 49°. After waiting in vain for the return of his boats, Tchiricoff left the coast of America, and on his return discovered land in latitude 51°. This could be no other than the southernmost of the Aleutian Islands; and the circumstance of the natives coming off to him in *skin* canoes confirms the supposition, as no canoes of that description have ever been found on the American coast in that parallel. The authenticity of this account of Tchiricoff's voyage can hardly be questioned. It was published a few years only after his return, and it is stated that M. de Lisle had received the manuscripts of his brother, who died at Kamtchatka shortly after the termination of the voyage. Müller, who was in the expedition on board Behring's ship, gives nearly the same account as the above of Tchiricoff's voyage, placing his land fall in latitude of 56°. Cox, Burney, and all writers on this subject whom we have met with, have adopted these accounts.

M. Fleurieu, the most intelligent writer on this subject of the last century, in his "Historical Introduction" to the voyage of Marchand, published in 1801, speaking of the Russian navigators alluded to by M. de Poletica, says, "The principle
28 object of all these voyages was the examination of that long archipelago, known under the collective name of the *Aleutian* or *Fox* Islands, which the Russian Charts divide into several archipelagoes under different names; of all that part of the coast which extends east and west under the parallel of 60°, and comprehends a great number of islands situated to the south of the mainland, some of which were visited and others only perceived, by Behring; lastly, of the peninsula of *Alaska*, and of the lands situated to the *north* of this peninsula as far as the 70th degree. It is on these Aleutian Islands, and on upwards of 300 leagues of the coast, *which extends beyond the polar circle*, that the indefatigable Russians have formed these numerous Settlements," &c. From all these facts we feel fully warranted in the conclusion that no Russian navigator, excepting Tchiricoff, had seen the coast *eastward of Behring's Bay* previous to the Spanish voyages of Perez in 1774; Heceta, Ayala, and Quadra in 1775; and that of Cook in 1778; or even so late as 1788, when it was first visited by vessels from the United States. Thus much for the Russian "title of first discovery;" that of "first occupation" comes next.

We have no doubt that Russian fur-hunters formed Establishments at an early period on the Aleutian Islands and neighbouring coast of the continent; but we are equally certain that it can be clearly demonstrated that no Settlement was made eastward of Behring's Bay till the one at Norfolk Sound in 1799. The statements of

Cook, Vancouver, Mears (Mirs), Portlock, and La Pérouse prove, what we readily admit, that previous to 1786 the Russians had Settlements on the Island of *Kodias* and in *Cook's River;* but we shall take leave to use the same authorities to establish the fact that none of these Settlements extended so far east as Behring's Bay. Vancouver, when speaking of *Port Etches, in Prince William's Sound* (June 1794), says (vol. iii, p. 173), "From the result of Mr. Johnstone's inquiries it did not appear that the Russians had formed any Establishments *eastward of this station*, but that their boats made excursions along the exterior coast as far as Cape Suckling, and their galiots much farther." Again, p. 199, "We, however, clearly understood that the Russian Government had little to do with these Settlements; that they were solely under the direction and support of independent mercantile Companies; and that *Port Etches*, which had been established in course of the preceding summer, was *the most eastern Settlement on the American coast.*"

In a subsequent letter to Mr. Adams M. de Poletica says: "But what will dispel even the shadow of doubt in this regard (title by occupation) is the *authentic fact*, that in 1789 the Spanish packet "St. Charles," commanded by Captain Haro, found in the latitude 48 and 49 Russian Establishments to the number of *eight*, consisting in the whole of twenty families, and 460 individuals. *These were the descendants of the companions of Tchiricoff, who was supposed till then to have perished.*" This, if true, is, we allow, conclusive evidence of the Russian "title by occupation." It is certainly the most important fact brought forward by M. de Poletica, and on its correctness we are willing to rest the issue. Nootka Sound lies in latitude 49° 30′, Clayoquot or port Cox, in 49°, and Classet, at the entrance of the Straits of Juan de Fuca, in 48°. Nootka was first visited by the Spanish navigator Perez in 1774, by Cook in 1778; from 1784 to 1789 it was frequented by English, Portuguese, and American vessels; in 1788 Captain Mears built there a vessel, and made the Settlement which, subsequently, came near causing a rupture between Great Britain and Spain; in 1789 a Spanish Settlement was made by Martinez, and continued till 1794. During this period Nootka, Clayoquot, and Classet were the common rendezvous for the ships and fur-traders of all nations; vessels were built by citizens of the United States, both at Nootka and Clayoquot; in 1790 the Settlements at Nootka became the subject of investigation in the British Parliament, and volumes were written on it. Now we ask M. de Poletica, or any man of common intelligence, if it is within the bounds of probability, if it is even possible, that eight Russian Establishments, containing 462 individuals, should have existed in 1789, in the centre of these operations; on the very spot for which two powerful nations were contending; and no allusion be made to the circumstances during the whole discussion, no mention be made of them by any of the numerous writers on the subject, and no intimation of the fact in the journals of Cook, Mears, Dixon, and Vancouver, who speak of Russian Establishments on other parts of the coast, and are altogether silent respecting these, which, had they existed, would have been of more importance than all the other Russian Settlements in that quarter of the globe!

We have recently conversed with a son of Captain Kendrick, who was with his father, in the "Columbia," in 1787, and remained a considerable time at Nootka, in the Spanish service, and with another individual, of great respectability now
29 residing near Boston, who, in 1792, built and equipped a small vessel at Nootka for commercial purposes. Both these individuals were personally intimate with Captain Haro, at Nootka, but never heard an intimation of his having discovered Russian Establishments in that vicinity; yet such a fact must have been highly interesting to the Spaniards, who intended their Settlement to be permanent, and to the Americans, who were actively engaged in the fur trade; and, therefore, very likely to become a subject of discussion.

In the summer of 1799 the writer, then off Behring's Bay, in latitude 59° 30′, fell in with M. Baranoff, at that time, and for many years before and afterwards, Commander-in-chief of all the Russian Establishments in that part of the world. He visited the American ship, and passed a day on board. Through an Englishman in his service, who acted as interpreter, a full and free communication took place. M. Baranoff stated that he was from Onalaska, which he left in company with a galiot and a large fleet of skin-canoes, from whom he separated in a fog, a few days before; and that they were all bound for *Norfolk Sound*, for the purpose of forming a Settlement or hunting post. Learning that the writer had been at that place a short time previous, he showed great solicitude to obtain information, particularly respecting the native inhabitants, of whom he appeared to be much in dread, declaring his apprehensions that they would destroy his hunters and defeat his plans.

He further stated that a hunting party having a short time before extended their excursion to the neighbourhood of Norfolk Sound, had found the sea-otters so abundant as to induce him to undertake what he considered a most perilous enterprise, and he expressly declared that this was the first attempt ever made by the Russians to establish a post so far to the southward and eastward. This, though not a "historical fact," is one for the correctness of which we hold ourselves pledged.

It would thus seem that M. Baranoff knew nothing of the extensive Russian Establishments in 48° and 49°, and we may, without injustice, regard as wholly gratuitous on the part of M. de Poletica the discovery of the long lost companions of Tchiricoff. We are tempted, moreover, to dwell a moment on the unparalleled increase ascribed to this party. 460 descendants from fifteen men in forty-seven years would afford a duplication of numbers in a little more than nine years, a statement we should not dare to make in the hearing of Mr. Godwin. But what has become of these "eight Establishments?" The plain truth is, that in fixing the situation of the eight Establishments, discovered by Captain Haro, M. de Poletica has made the mistake of 10° of latitude. They were actually found in latitude 58° and 59°, instead of 48° and 49°, and distant more than 1,000 miles from the situation assigned them by the Russian Minister. This fact appears, beyond a doubt, from the account of the voyage of Captain Haro, given by M. Fleurieu, in the "Historical Introduction" before referred to. It is there stated, on the authority of two original letters, the one from San Blass, dated the 30th October, 1788 (a few days after the return of Haro), the other from the City of Mexico, the 28th August, 1789, that Don Haro found, between the latitudes of 58° and 59°, eight Russian Establishments, each composed of between sixteen and twenty families, forming a total of 462 individuals.

It is added, "that the strangers had succeeded in habituating to their customs and manners 600 of the natives of the country, and received a tribute from them for the Empress of Russia." For this part of the account M. de Poletica has substituted his own speculations concerning the lost companions of Tchiricoff. In a note M. Fleurieu remarks, that "in the letter from St. Blass it is mentioned that the Settlements are situated between the latitudes of 48° and 49°, but it is either the fault of the copy, or it is by design, that the latitudes have been improperly indicated."

M. de Humboldt, in his "Political Essay on the Kingdom of New Spain," vol. ii, p. 320, mentions the voyage of Don Haro, in the St. Carlos, and essentially confirms the account already given. As he had access to the manuscript account of the voyage, we presume his authority will not be questioned. Page 339, he says, "No European nation has yet formed a solid Establishment on the immense extent of coast from Cape Mendocina (latitude 42°) to the 59th degree of latitude; *beyond this limit the Russian Factories commence*," &c.

It is perfectly well known to every navigator, Russian as well as others, who has visited that part of the world, that no Russian Settlement now exists, or *ever did exist*, between the latitudes of 58° and 42°, except the one so often mentioned at Norfolk Sound. On what, then, rests the Russian claim to any part of the country between those parallels? Simply on the facts that Tchiricoff in 1741 saw land in 55° 36′, and that M. Baranoff in 1799 made a Settlement at Norfolk Sound, which was
30 destroyed in 1802, and re-established in 1804. Such, we conceive, is the plain result of an investigation of the very authorities which M. de Poletica himself has adduced.

We attach no importance to the circumstance of land being seen by Tchiricoff in 1741; but if M. de Poletica does, we are perfectly willing to try titles with him on the score of discovery. It is well known that Spain, by the IIIrd Article of the Treaty of 1819, ceded to the United States all her rights to the western coast of America north of 42°. It follows that all the discoveries made by her navigators beyond that limit now belong to the United States. It is a "historical fact," and one too well authenticated to admit of doubt; and it is stated by M. de Humboldt, in his "Political Essay on the Kingdom of New Spain," p. 313, that "*Francisco Gali*, in his voyage from Macao to Acapulco, discovered in 1582 the north-west coast of America under the 57° 30′." "On correcting the old observations by the new, in places of which the identity is ascertained, we find that Gali coasted part of the Archipelago of the Prince of Wales, or that of King George." Here we find that the land was discovered and its shores examined 159 years before the voyage of Tchiricoff, and from 2 degrees farther north than the cape seen by that navigator—a fact that puts the Russian claim to discovery out of the question. As little do we believe in the validity of the claims resulting from the occupation of Norfolk Sound in 1799. This sound was first discovered and examined by the Spanish expedition under Heceta, Ayala, and Quadra in 1775, and received the name of "Bay of Guadalupa." A few years afterwards it was visited for commercial purposes, and abounding in valuable furs, soon became the general resort of all those engaged in that trade. It was frequented by the vessels of Great Britain, France, and the United States several years before the Russians had extended their excursions so far eastward; and it is therefore clear that, at that time, they had no claim on the ground of occupation. If, then, prior to 1799, Russia possessed no rights on this part of the coast but such as were common to and enjoyed by other nations, we confess ourselves unable to perceive why the establishing of a few hunters, and mounting some cannon in the corner of Sitka Bay, should give her the right of restraining an intercourse and interdicting a commerce which had hitherto been free.

It is well known to the Russian Fur Company that nearly all the sea-otter skins, and most of the other valuable furs, are procured north of the 51st degree, and if "foreign adventurers" can be prevented from approaching that part of the coast, the Company would soon be left in undisturbed possession of the whole trade, for south of 51° it is not of sufficient value to attract a single vessel in a season. This would not only secure to them a monopoly in the purchase, but give them the control of the Chinese market for the most valuable furs, which would be still more important. But we suspect a deeper design than the monopoly of a few otter-skins, for which the interests of the Fur Company are made a convenient cover. We have the authority of Humboldt for stating that, in 1802, the Russian Government limited their territorial claims to the north of 55°. They are now extended to 51°, and M. de Poletica informs us that this is only "a moderate use of an incontestable right." If the eight Establishments existed in 1789 where the Russian Minister places them, no one would deny their right of possession at that time as far as 48°. The nearest European Settlement was then the Spanish one of *St. Francisco*, in 38°. The point, equidistant from these two, is the 43rd degree, which, according to the principle asserted by M. de Poletica, would have been the Russian boundary in 1789. The Russians have already made a considerable Settlement on Spanish territory at Fort Bodega in latitude 40°, and it is *possible* that, guided by the same spirit of philanthropy which prompted the dismemberment of Poland, the august Emperor may choose to occupy the fertile, but defenceless, Province of California, and annex it to his already extensive dominions. Notwithstanding the friendly relations that exist between the United States and Russia, we should deem it a serious evil to have, on our western frontiers, a formidable population, subjects of an ambitious and despotic Government.

Those engaged in the trade to the north-west coast have always considered it a lawful commerce, and, having been confirmed in that opinion by the official declaration of the Executive of the United States that "from the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and *the right to navigate them is a part of that independence*," and that "the right of the citizens of the United States to hold commerce with the aboriginal natives of the north-west coast of America without the territorial jurisdiction of other nations, even in arms and ammunitions of war, is as clear and indisputable as that of navigating the seas," they are not disposed to surrender these rights
31 without a struggle. The American vessels employed on the north-west coast are well armed and amply furnished with the munitions of war. Separated from the civilized world, and cut off, for a long time, from all communication with it, they have been accustomed to rely on their own resources for protection and defence, and to consider and *treat* as enemies all who attempt to interrupt them in the prosecution of their lawful pursuits. To induce them to relinquish this commerce "persuasion" will be unavailing, "threats" will be disregarded, and any attempts at coercion will be promptly resisted, unless made by a force so superior as to render resistance hopeless, in which event they will look with confidence to their Government for redress and support.

The trade carried on by citizens of the United States with the Russian Settlements on the north-west coast has the sanction of their own Government, and till now has never been prohibited by that of Russia. It is done openly and with the consent of the "established authorities" at the several places, who are themselves, in most instances, parties to all commercial transactions. But for the supplies which this trade has furnished some of the Russian Settlements must have been abandoned, and, from Langsdorff's account of the situation of "New Archangel," it appears that in 1805 the people would have perished from famine had they not been relieved by American traders. At this moment American vessels are engaged, by contract with the servants of the Russian Fur Company, in supplying their Settlements with the necessaries and comforts of life.

No. 18.

Count Lieven to Mr. G. Canning.

LONDRES, *le 19 (31) Janvier, 1823.*

A la suite des déclarations verbales que le Soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté l'Empereur de Toutes les Russies, a faites au Ministère de Sa Majesté Britannique, le Cabinet de St. James a dû se convaincre que si des objections s'étoient élevées

contre le Règlement publié au nom de Sa Majesté l'Empereur de Toutes les Russies, sous la date du 4 (16) Septembre, 1821, les mesures ultérieures adoptées par Sa Majesté Impériale ne laissent aucun doute sur la pureté de ses vues et sur le désir qu'elle aura toujours de concilier ses droits et ses intérêts avec les intérêts et les droits des Puissances auxquelles l'unissent les liens d'une amitié véritable et d'une bienveillance réciproque.

Avant de quitter Vérone, le Soussigné a reçu l'ordre de donner au Gouvernement de Sa Majesté Britannique une nouvelle preuve des dispositions connues de l'Empereur, en proposant à son Excellence Mr. Canning, Principal Secrétaire d'Etat de Sa Majesté Britannique pour les Affaires Étrangères (sans que cette proposition puisse porter atteinte aux droits de Sa Majesté Impériale, si elle n'est pas acceptée), que de part et d'autre la question de droit strict soit provisoirement écartée, et que tous les différends auxquels a donné lieu le Règlement dont il s'agit, s'applanissent par un arrangement amical fondé sur le seul principe des convenances mutuelles et qui seroit négocié à St. Pétersbourg.

L'Empereur se flatte que Sir Charles Bagot ne tardera point à recevoir les pouvoirs et les instructions nécessaires à cet effet et que la proposition du Soussigné achèvera de démontrer au Gouvernement de Sa Majesté Britannique combien Sa Majesté Impériale souhaite qu'aucune divergence d'opinion ne puisse subsister entre la Russie et la Grande-Bretagne, et que le plus parfait accord continue de présider à leurs relations.

Le Soussigné saisit, &c. LIEVEN.

No. 19.

Mr. G. Canning to Sir C. Bagot.

No. 1.] FOREIGN OFFICE, *February 5, 1823.*

SIR: With reference to my despatch No. 5 of the 31st December last, transmitting to your Excellency the copy of an instruction* addressed to the Duke of Wellington, as well as a despatch† from his Grace
32 dated Verona the 29th November last, both upon the subject of the Russian Ukase of September 1821, I have now to inclose to your Excellency the copy of a note‡ which has been addressed to me by Count Lieven expressing His Imperial Majesty's wish to enter into some amicable arrangement for bringing this subject to a satisfactory termination, and requesting that your Excellency may be furnished with the necessary powers to enter into negotiation for that purpose with His Imperial Majesty's Ministers at St. Petersburgh.

I avail myself of the opportunity of a Russian courier (of whose departure Count Lieven has only just apprized me) to send this note to your Excellency, and to desire that your Excellency will proceed to open the discussion with the Russian Minister upon the basis of the instruction to the Duke of Wellington.

I will not fail to transmit to your Excellency Full Powers for the conclusion of an agreement upon this subject by a messenger whom I will dispatch to you as soon as I shall have collected any further infor-

* No. 14. † No. 16. ‡ No. 18.

mation which it may be expedient to furnish to your Excellency, or to found any further instruction upon, that may be necessary for your guidance in this important negotiation.

I am, &c. (Signed) GEORGE CANNING.

No. 20.

Mr. G. Canning to Sir C. Bagot.

No. 4.] FOREIGN OFFICE, *February 25, 1823.*

SIR: I transmit to your Excellency herewith a Full Power which the King has been pleased to grant to you under the Great Seal, authorizing and empowering you to adjust the differences which have arisen in consequence of the Ukase promulgated at St. Petersburgh on the 4th September, 1821, which prohibits, under pain of confiscation, all foreign vessels from approaching within 100 Italian miles of the north-western coast of America, the Aleutian and Kurile Isles, and the eastern coasts of Siberia.

I have nothing further to add to the papers with which your Excellency has already been furnished on this subject, except two opinions which were laid by the King's Law Officers before His Majesty's Government on the first receipt of the Ukase in question.

I am, &c.

(Signed) GEORGE CANNING.

No. 21.

Sir C. Bagot to Mr. G. Canning.—(Received March 15.)

No. 8.] ST. PETERSBURGH, *February 10 (22), 1823.*

SIR: Count Lieven's courier arrived here yesterday afternoon, and I had this morning the honour to receive your despatch No. 1 of the 5th instant, inclosing to me a copy of his Excellency's note to you of the 31st of last month, respecting the Imperial Ukase of the 16th September, 1821.

As the post is on the point of setting out I have only time to acknowledge the receipt of this despatch, and to assure you that I shall immediately proceed to open with the Russian Ministry the discussions which you instruct me to hold upon the important subject to which it relates.

I had yesterday an interview with Count Nesselrode, when I took occasion to speak with him generally upon the state of affairs as they appear to be affected by the King of France's speech at the opening of the Chambers, but nothing passed in our conversation which it seems necessary that I should report to you, and I have not had an opportunity of seeing the Emperor since his return from Verona.

The latest intelligence received here from Constantinople is still that of the 25th of last month.

I ought to state that in the copy of the instructions given to the Duke of Wellington by your despatch No. 6 to his Grace of the 27th September last, and which was transmitted to me in your

despatch No. 5 of the 31st December, the opinions of Lord Stowell and of His Majesty's Advocate-General upon the subject of this Ukase, and the other papers therein referred to, were not inclosed.

I have, &c.

(Signed) CHARLES BAGOT.

No. 22.

Count Nesselrode to Count Lieven.

SAINT-PÉTERSBOURG, *le 17 Avril, 1823.*

M. LE COMTE: Par mes dépêches du 17 de ce mois, j'ai fait connoître à votre Excellence les résultats peu satisfesans de nos négociations avec Sir Charles Bagot, relatives aux frontières qui doivent séparer les possessions Russes des possessions Angloises par la côte nord-ouest de l'Amérique.

Aujourd'hui, M. le Comte, je vous développerai les motifs qui ne nous ont pas permis d'accepter les propositions de l'Ambassadeur d'Angleterre.

Pour ne pas entrer sans nécessité dans de trop longs détails, je me bornerai à discuter ici le point de la question sur lequel nous n'avons pû tomber d'accord.

L'Oukase du 4 (16) Septembre, 1821, avoit porté jusqu'au 51° de latitude septentrionale les limites des domaines de la Russie sur la côte nord-ouest du Continent Américain. Cependant l'Empereur s'étant convaincu que presqu'à la même époque la Compagnie Angloise de la Baie d'Hudson avoit formé des Établissemens par les 53° et 54° de latitude septentrionale, et que ces Établissemens n'étoient même plus très éloignés de la côte, nous autorisa à donner, dès l'ouverture des négociations, une preuve de ses intentions conciliantes, en déclarant à Sir Charles Bagot que nous nous tiendrions aux limites assignées à nos possessions Américaines par la Charte de l'Empereur Paul, qu'en conséquence la ligne du 55e degré de latitude septentrionale, constitueroit au midi la frontière des États de Sa Majesté Impériale, que sur le continent et vers l'est, cette frontière pourroit courir le long des montagnes qui suivent les sinuosités de la côte jusqu'au Mont Élie, et que de ce point jusqu'à la Mer Glaciale nous fixerions les bornes des possessions respectives d'après la ligne du 140e degré de longitude ouest méridien de Greenwich.

Afin de ne pas couper l'Ile du Prince de Galles, qui selon cet arrangement devoit rester à la Russie, nous proposions de porter la frontière méridionale de nos domaines au 54° 40′ de latitude et de la faire aboutir sur le Continent au Portland Canal, dont l'embouchure dans l'Océan est à la hauteur de l'Ile du Prince de Galles et l'origine dans les terres entre le 55° et 56° de latitude.

Cette proposition ne nous assuroit qu'une étroite lisière sur la côte même, et elle laissoit aux Établissemens Anglois tout l'espace nécessaire pour se multiplier et s'étendre.

Vous verrez, M. le Comte, par les pièces ci-jointes, qu'en outre nous annoncions l'ouverture du port de Novo-Archangelsk et que nous promettions la libre navigation des fleuves qui se trouveroient sur notre territoire.

Après quelques discussions, les dernières contre-propositions de Sir Charles Bagot furent de comprendre toute l'Ile du Prince de Galles dans les possessions de la Russie, mais de stipuler que notre frontière suivroit

de cette île la passe dite *Duke of Clarence's Sound*, et qu'elle n'aboutiroit à la côte qu'au-dessus du 56° de latitude septentrionale.

Cette différence, si on la considère sur la Carte, paroit insignifiante au premier coup d'œil; elle est néanmoins si essentielle pour nous, qu'il nous est absolument impossible d'adhérer au plan de démarcation tracé par le Plénipotentiaire de Sa Majesté Britannique.

Nous lui avons exposé, dans notre réponse à sa seconde note verbale et dans notre réplique du 18 Mars, des considérations que nous ne pouvons perdre de vue et qui nous semblent décisives. L'Empereur vous charge, M. le Comte, d'inviter le Cabinet de St. James à les peser avec la plus mûre attention, et Sa Majesté se flatte qu'à la suite d'un examen impartial il s'empressera lui-même de reconnoître combien nos raisons sont graves et légitimes.

En premier lieu, aucun État n'a réclamé contre la Charte de l'Empereur Paul, et ce silence universel peut et doit être envisagé comme une reconnoissance de nos droits.

34 On nous objecte que nous n'avons pas formé d'Établissemens établis sur la côte nord-ouest au-dessous du 57° de latitude. Cela est vrai, mais dans la saison de la chasse et de la pêche la côte et les eaux avoisinantes sont exploitées par notre Compagnie Américaine bien au delà du 55° et du 54° parallèle. Ce genre d'occupation est le seul dont ces parages soient susceptibles, ou du moins le seul qui soit nécessaire lorsqu'un peu plus au nord on a fondé et organisé des Colonies. Nous sommes donc pleinement en droit d'insister sur la continuation d'un bénéfice que notre commerce s'est assuré dès l'année 1799, tandis que les Compagnies Angloises de la Baie d'Hudson et du Nord-Ouest ont a peine atteint depuis trois ans le voisinage de ces latitudes, tandis qu'elles n'occupent encore aucun point qui touche à l'Océan, et qu'il est notoire que c'est pour l'avenir seulement qu'elles cherchent à s'y ménager les profits de la chasse et de la pêche. Ainsi nous voulons *conserver*, et les Compagnies Angloises veulent *acquérir*. Cette seule circonstance suffit pour justifier nos propositions. Elles ne sont pas moins conformes au principe des convenances mutuelles, qui devoit servir de base à la négociation.

Si l'Ile du Prince de Galles nous demeure, il faut qu'elle puisse nous être de quelque utilité. Or, d'après le plan de l'Ambassadeur d'Angleterre, elle ne seroit pour nous qu'une charge et presque un inconvénient. Cette île, en effet, et les Établissemens que nous y formerions, se trouveroient entièrement isolés, privés de tout soutien, enveloppés par les domaines de la Grande-Bretagne et à la merci des Établissemens Anglois de la côte. Nous nous épuiserions en frais de garde et de surveillance dont aucune compensation n'allégeroit le fardeau. Un arrangement pareil reposeroit-il sur le principe des convenances mutuelles?

Nous invoquons toutefois ce principe avec d'autant plus de justice que l'Angleterre elle-même a prouvé par un acte authentique qu'elle regardoit comme douteux ses droits sur le territoire dont elle demande l'abandon. La Convention passée le 20 Octobre, 1818, entre la Cour de Londres et les États-Unis, déclare propriété commune des deux Puissances pour dix ans toute l'étendue de pays comprise entre les *Rocky Mountains*, l'Océan Pacifique, et les possessions Russes. Les titres des États-Unis à la souveraineté de ce pays sont donc aussi valables que ceux de l'Angleterre. Cependant, le Cabinet de Washington a reconnu que nos limites devoient descendre jusqu'au 54° 40′. Il la reconnu par une transaction formelle que nous venons de parapher avec son Plénipotentiaire, et cette reconnoissance n'a point pour conséquence unique de fortifier nos argumens, elle nous procure d'autres résultats auxquels *nous attachions*, avec raison, le plus haut intérêt.

Tranquilles de ce côte, nous n'avons maintenant aucune crainte à nourrir, et le Cabinet de Londres conviendra sans doute qu'un tel état de choses augmente le prix des sacrifices que nous lui offrons. Déjà il existe une différence de près de quatre degrés entre la démarcation de l'Oukase du 4 (16) Septembre, 1821, et celle que nous indiquons aujourd'hui. Les Établissemens des Compagnies Angloises peuvent occuper cet intervalle. A l'est ils peuvent unir les deux côtes de l'Amérique; au midi rien n'empêche qu'ils n'acquièrent une extension considérable. Pour nous, nous bornons nos demandes à celle d'une simple lisière du continent, et afin de lever toute objection, nous garantissons la libre navigation des fleuves, nous annonçons l'ouverture du port de Novo-Archangelsk.

La Russie ne sauroit pousser plus loin ses concessions. Elle n'en fera pas d'autres, et elle est autorisée à en attendre de la part de l'Angleterre; mais encore une fois, elle ne réclame que des concessions négatives. On ne peut effectivement assez le répéter, d'après le témoignage des Cartes les plus récentes, l'Angleterre ne possède aucun Établissement, ni à la hauter du Portland Canal, ni au bord même de l'Océan, et la Russie, quand elle insiste sur la conservation d'un médiocre espace de terre ferme, n'insiste au fond que sur le moyen de faire valoir, nous dirons plus, de ne pas perdre les îles environnantes. C'est la position dont nous parlions tout à l'heure; nous ne recherchons aucun avantage, nous voulons éviter de graves inconvéniens.

En résumé, M. le Comte, si l'on consulte le droit dans cette négociation, la Russie a celui qu'assurent, d'une part, un consentement tacite, mais incontestable, de l'autre, une exploitation paisible depuis vingt-cinq ans et qui peut être considérée comme équivalente à une occupation continue.

Si l'on invoque le principe des convenances mutuelles, la Russie laisse au développement progressif des Etablissemens Anglois, une vaste étendue de côte et de territoire; elle leur assure de libres débouchés; elle pourvoit aux intérêts de leur commerce, et pour compenser tant d'offres dictées par le plus sincère esprit de conciliation, elle se réserve uniquement un point d'appui, sans lequel il lui seroit impossible de garder une moitié de ses domaines.

De telles vues n'ont besoin que d'être présentées dans leur vrai jour pour qu'un Gouvernement comme celui de la Grande-Bretagne sache les apprécier. Douter de son adhésion dans cette circonstance, ce seroit douter de sa justice; et il vous sera facile, l'Empereur se plait à le croire, d'obtenir le consentement définitif de l'Angleterre à une transaction qui rempliroit nos vœux et nos espérances, en prévenant toute discussion ultérieure.

Recevez, &c., NESSELRODE.

No. 23.

The Duke of Wellington to Mr. G. Canning.—(Received ———.)

LONDON, *May 21, 1823.*

MY DEAR MR. CANNING: I see that the newspapers have again drawn the publick attention to the Russian Ukase; and as it is possible some question may be asked upon it in Parliament, I inclose you a Memorandum of what passed at Verona, and stating where you will find the documents.

Ever yours, &c.

(Signed) WELLINGTON.

[Inclosure in No. 23.]

Memorandum.

The Duke of Wellington was instructed to bring the Russian Cabinet to some distinct explanation as to the mode in which the differences of opinion on the instrument (the Ukase) may be reconciled.

In consequence of this instruction he gave Count Nesselrode a confidential Memorandum on the 17th October, to which the Count gave an answer on the 28th November.

Copies of both papers, as well as of a letter from the Duke of Wellington to Count Lieven of the 28th November on the last mentioned will be found in the Duke's despatch to Mr. Canning of the 28th November.*

On the 29th November the Duke wrote another despatch to Mr. Canning† stating that it had been settled that both the papers before sent were to be considered as *non avenus*, and that the Russian Ambassador in London was to address to Mr. Canning a note in answer to that of the late Lord Londonderry, assuring him of the desire of the Emperor to negotiate with His Majesty upon the whole question of the Emperor's claims in North America, reserving them all if the result of the negotiation should not be satisfactory to both parties.

That which is required then is to get from Count Lieven this note.

MAY 21, 1823.

No. 24.

Mr. S. Canning to Mr. G. Canning.—(Received May 27.)

No. 44.] WASHINGTON, *April 23, 1823.*

SIR: By accounts which have reached this country through commercial channels it appears that a Russian naval force is actually employed in carrying into effect the Edict issued by the Court of St. Petersburgh in September 1821 for the purpose of declaring its pretensions to an exclusive dominion over certain parts of the North Pacific Ocean and north-west coast of America, and of prohibiting the entry of all foreign vessels within 100 Italian miles of the territorial limits so claimed. The inclosed paragraph, taken from the "National Intelligencer" of this morning, contains the fullest statement which I have yet seen of this circumstance, though it is not improbable that the American Government may be in possession of more complete information on the subject, as an officer is understood to have recently arrived overland with despatches from the "Franklin Seventy-Four," stationed in the Pacific.

The correspondence which took place in the spring of last year
36 between the Russian Envoy and Mr. Adams on occasion of the Emperor of Russia's Edict, and the prohibitory Regulations of the American Russian Company, as sanctioned by it, being notified officially to this Government, was forwarded to your office at the time in one of my despatches.

Judging from the tone assumed on this subject by the American journals, the people of the United States would not be found unwilling to support the President in resisting a continued enforcement of the abovementioned Edict.

I have, &c. (Signed) STRATFORD CANNING.

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*No. 15. †No. 16.

[Inclosure in No. 24.]

Extract from the "National Intelligencer" of April 23, 1823.

The following is a more particular version of the information brought by the late arrival from the Pacific, that a naval force is enforcing the monstrous pretension set up by the Government of Russia to the exclusive use of one half of the whole Pacific Ocean:

"We learn by Captain Gardner at New Bedford, from the Sandwich Islands, that the brig 'Pearl,' Captain Stevens, of Boston, arrived there five days before he sailed from the north-west coast, having been ordered off by the Russian officer commanding at Norfolk Sound. After leaving the port, the 'Pearl' was boarded by the Russian frigate 'Apollo,' and documents were presented to Captain Stevens declaring the Russian claim to exclusive jurisdiction to extend to latitude 51° north on the north-west coast of America, northward to Behring's Straits, and thence to latitude 47° 50′ north on the coast of Japan, and that all vessels, of whatever nation, caught within 100 Italian miles even of those extensive limits (except in the case of actual distress), will be subject to confiscation—*national vessels not excepted.* The 'Apollo' was about to dispatch vessels, and also to proceed down the coast for the purpose of ordering all vessels off. Two other large Russian frigates are on their way to the coast."—*Boston Pal.*

No. 25.

Ship-owners' Society to Mr. G. Canning.—(Received ———.)

NEW BROAD STREET, *June 11, 1823.*

SIR: I have been requested by the Committee of this Society to represent to you, Sir, that considerable alarm has been excited among the owners of ships engaged in the southern whale fishery by the Order lately issued by His Majesty the Emperor of Russia "prohibiting foreign vessels to touch at the Russian Establishments along the north-west coast of America from Behring's Straits to 51° north latitude, as well as in the Aleutian Islands on the east coast of Siberia, and the Kurile Islands, that is to say, from Behring's Straits to the South Cape in the Island of Ooroop, viz., in 45° 51′ north latitude, or even to approach them within a less distance than 100 Italian miles."

This Committee being aware of the delicacy of the subject, and that the attention of His Majesty's Government had been directed to it, have been unwilling to trouble you with any representations, but as there are now many ships fishing in those seas, and several others bound thither, and it appears that fears are generally entertained lest the seizure and confiscation of some of them should take place by the Russian authorities, upon the plea of their having been within the prohibited limits, the Committee have felt it their duty, and have requested me thus most respectfully to express to you, Sir, their hope that you may be enabled to communicate to them such information as will remove those apprehensions.

I have, &c. (Signed) GEORGE LYALL,
Chairman of the Committee.

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37 No. 26.

Mr. S. Canning to Mr. G. Canning.—(Received June 12.)

No. 47.] WASHINGTON, *May 3, 1823.*

SIR: The Russian Envoy, Baron Tuyll, who arrived here about three weeks ago, has proposed to the American Government, in the name of his Court, to send instructions to Mr. Middleton at St. Petersburgh for the purpose of enabling him to negotiate an arrangement of the differ-

ences arising out of the claims asserted by the Emperor of Russia to an exclusive dominion over the north-west coast of America, and the neighbouring seas as far as the 51st degree of north latitude. The proposal, I conceive, to be similar to that which was made by Count Nesselrode to His Majesty's Plenipotentiary at Verona relative to the same object, as it affects Great Britain. The American Secretary of State, in apprizing me of the communication received from Baron Tuyll, expressed a desire that I would mention it to His Majesty's Government, and stating that Mr. Middleton would in all probability be furnished with the necessary powers and instructions, suggested whether it might not be advantageous for the British and American Governments, protesting as they did against the claims of Russia, to empower their Ministers at St. Petersburgh to act in the proposed negociation on a common understanding. He added that the United States had no territorial claims of their own as high as the 51st degree of latitude, although they disputed the extent of those advanced by Russia, and opposed the right of that Power to exclude their citizens from trading with the native inhabitants of those regions over which the sovereignty of Russia had been for the first time asserted by the late Edict of the Emperor, and most particularly the extravagant pretension to prohibit the approach of foreign vessels within 100 Italian miles of the coast.

At the same time that he submitted this overture for the consideration of His Majesty's Government, Mr. Adams informed me that he had received an account similar to that which lately appeared in the newspapers, and which has already been forwarded to your Office, of an American trading-vessel having been ordered away from the north-west coast by the Commander of a Russian frigate stationed in that quarter. He did not appear, however, to apprehend that any unpleasant consequences were likely to result from that occurrence, as it was understood that provisional instructions of a less exceptionable tenour had been dispatched from St. Petersburgh in compliance with the representations of foreign Powers.

In bringing under your notice this overture of the American Government, respecting which I cannot presume to anticipate the sentiments of His Majesty's Cabinet, I have only to add that on asking Mr. Adams whether it was his intention to enter more largely upon the subject at present, I was informed, in reply, that it would be desirable for him previously to know in what light the British Government was disposed to view the suggestion which he had offered. He appeared to be under an impression that the instructions and powers requisite for acting separately in this affair had already been transmitted to Sir Charles Bagot.

I have, &c. (Signed) STRATFORD CANNING.

No. 27.

Memorandum to be delivered to Mr. Lyall, Chairman of the Ship-owners' Society.

No doubt is entertained but that British vessels may pursue their usual navigation within the seas mentioned in Mr. Lyall's letter without apprehension of molestation from Russia.

The warning off of the American vessel took place before notice of the modifications of the Ukase, assurances of which were given to the

Government of the United States in the month of April last, could have reached the Russian Commander in those seas. Similar assurances were given to the British Government by the Russian Ambassador in September; and the whole subject is now under negotiation at St. Petersburgh.

FOREIGN OFFICE, *June 27, 1823.*

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8 No. 28.

Mr. G. Canning to Sir C. Bagot.

[No. 12.] FOREIGN OFFICE, *July 12, 1823.*

SIR: I have the honour to inclose, for your Excellency's information, the copy of a despatch received from His Majesty's Minister in America upon the subject of the Russian Ukase relating to the north-west coast of America, also of a letter from the Ship-owners' Society upon the same object, and of a Memorandum of my reply to that letter.

Your Excellency will observe from Mr. Stratford Canning's despatch that the Government of the United States are desirous to join with that of His Majesty in bringing forward some proposition for the definitive settlement of this question with Russia.

We have no precise information as to the views of the American Government, Mr. Rush not having yet received any instructions upon the subject. It seems probable, however, that the part of the question in which the American Government is peculiarly desirous of establishing concert with this country is that which concerns the extravagant assumption of maritime jurisdiction. Upon this point, it being now distinctly understood that Russia waives all her pretensions to the practical exercise of the rights so unadvisedly claimed, the only question will be as to the mode and degree of disavowal with which Great Britain and the United States might be respectively satisfied.

Upon this point, therefore, such a concert as the United States are understood to desire will be peculiarly advantageous; because, supposing the disavowal made, there is no disposition on the part of His Majesty to press hard upon the feelings of the Emperor of Russia, and it would certainly be more easy for His Majesty to insist lightly on what may be considered as a point of national dignity, if he acted in this respect in concert with another Maritime Power, than to exact any less degree, either of excuse for the past or of security for the future, than that other Power might think necessary.

Great Britain and the United States may be satisfied jointly with smaller concessions than either Power could accept singly, if the demands of the other were likely to be higher than its own.

I therefore think it best to defer giving any precise instructions to your Excellency on this point until I shall have been informed of the views of the American Government upon it.

In the meantime, however, you will endeavour to draw from the Russian Government a proposal of their terms, as we should undoubtedly come much more conveniently to the discussion, and be much more likely to concert an Agreement upon moderate terms with the American Government if a proposal is made to us, than to agree in originating one which would be satisfactory at once to both Governments and to Russia.

The other part of this question which relates to territorial claim and boundary is perhaps susceptible of a separate settlement; of the two principles on which the settlement could be made, viz., joint occupancy or territorial demarcation; the latter is clearly preferable. A line of demarcation drawn at the 57th degree between Russian and British settlers would be an arrangement satisfactory to us, and would assign to Russia as much as she can pretend to be due to her. Your Excellency will therefore bring this suggestion forward, and acquaint me how far a formal proposition on this basis would be agreeable to His Imperial Majesty's Government. The arrangement might be made, if more agreeable to Russia, for an expirable period of ten or fifteen years.

I am, &c.

(Signed) GEORGE CANNING.

P. S.—JULY 13.—Since this despatch was written I have received from Mr. S. Canning the despatch of which I inclose a copy, by which your Excellency will learn that instructions are to be sent to Mr. Rush to enter into discussion here (among other matters) upon the subject of the Ukase. There is nothing in this communication to vary the instructions herein given to your Excellency.

G. C.

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39 No. 29.

Count Nesselrode to Count Lieven.—(Communicated August 14.)

[Confidentielle.—Extrait.]

SAINT-PÉTERSBOURG, *le 26 Juin, 1823.*

Les instructions additionnelles envoyées aux officiers de la Marine Impériale chargées de la surveillance de nos côtes dans la partie nord-ouest de l'Amérique, portent nommément:

1. Que les Commandans de nos bâtimens de guerre doivent exercer leur surveillance aussi près que possible du Continent, c'est-à-dire, sur une étendue de mer qui soit á la portée du canon de la côte; qu'ils ne doivent point étendre cette surveillance au delà des latitudes sous lesquelles la Compagnie Américaine a effectivement exercé ses droits de chasse et de pêche, tant depuis l'époque de sa création, que depuis le renouvellement de ses privilèges en 1799, et que, quant aux îles, oú se trouvent des Colonies ou Établissemens de la Compagnie, elles sont toutes indistinctement comprises dans cette règle générale;

2. Que cette surveillance doit avoir pour objet de réprimer tout commerce frauduleux, et toute tentative de nuire aux intérêts de la Compagnie en troublant les parages fréquentés par ses chasseurs et ses pêcheurs, enfin, de prévenir toute entreprise dont le but serait de fournir aux naturels du pays, sans le consentement des autorités, des armes à feu, des armes blanches, ou des munitions de guerre;

3. Que dans ce qui concerne les bâtimens égarés, battus par la tempête, ou entraînés par les courans, les Commandans des vaisseaux de la marine Impériale continueront à se conformer aux dispositions du Règlement du 4 Septembre, 1821; qu'ils s'y conformeront de même à l'égard des bâtimens qui se livreraient au commerce, aux tentatives ou entreprises ci-dessus indiquées; et que nommément, ils pourront en agir d'après les principes recus parmi toutes les nations, lorsqu'un vaisseau étranger, ayant à bord des marchandises prohibées ou des

munitions de guerre, approcherait d'un de nos Établissemens jusqu'à la portée du cannon, sans avoir égard aux interpellations et déclarations que nos officiers lui adresseraient en conformité de ce que leur a été prescrit antérieurement; enfin

4. Que ces officiers doivent s'abstenir de toute intervention dans l'exercice des fonctions locales du Directeur des Colonies, qui a reçu des instructions parfaitement analogues à celles dont ils ont été munies eux-mêmes, et qui se trouve revêtu du pouvoir d'un Commandant du Port.

Votre Excellence voudra bien observer que ces nouvelles instructions, qui, dans le fait, sont de nature à faire suspendre provisoirement l'effet de l'Oukase Impérial du 4 Septembre, 1821, n'ont été expédiées de St. Pétersbourg qu'au mois d'Août de l'année passée; que par conséquent l'officier qui se trouvait alors en croisière dans les parages en question, et le Directeur de nos Colonies, ne pourront les recevoir avant le mois de Septembre prochain, et que nommément le Capitaine Touloubieff, Commandant le sloop Russe "l'Apollon," ne pouvait en avoir connaissance à l'époque de l'incident rapporté par les journaux Américains.

No. 30.

Mr. G. Canning to Sir C. Bagot.

No. 17.] FOREIGN OFFICE, *August 20, 1823.*

SIR: Count Lieven called upon me some days since, and communicated to me confidentially the inclosed extract of a despatch* which his Excellency had received from Count Nesselrode upon the subject of the Russian Ukase of the 4th September, 1821.

Although it is very probable that your Excellency is already in possession of the facts stated in this paper, I think it right to transmit it to your Excellency lest it should not yet have come to your Excellency's knowledge.

I considered it expedient to make this communication known to Mr. Rush, the American Minister in this country, whose Government must naturally be deeply interested in any resolution which may be adopted by that of Russia upon this subject, apprizing Count Lieven that I had done so.

I am, &c. (Signed.) GEORGE CANNING.

40

No. 31.

Sir C. Bagot to Mr. G. Canning.—(Received September 23.)

No. 36.] ST. PETERSBURGH, *August 19 (31), 1823.*

SIR: Count Nesselrode being upon the eve of setting out to join the Emperor upon his journey through the interior, and it being probable that he will not return to St. Petersburgh before the middle of November, I have thought it advisable, even in the absence of those further instructions, which you lead me to expect in your despatch No. 12 of the 12th of last month, to apprize him of the probability of Mr. Middleton and myself being soon instructed to act jointly in negotiating with

*No. 29.

him some proposition for the definitive settlement of that part at least of the question growing out of the Imperial Ukase of the 4th (16th) September, 1821, which regards the maritime jurisdiction assumed by Russia in the North Pacific Ocean.

I have been induced to acquaint Count Nesselrode thus early with the fact, partly with a desire of ascertaining, so far as I could, the manner in which a combined measure of this kind would be viewed by the Imperial Government; and partly to ascertain whether his own absence would necessarily delay our negotiations upon this subject.

In respect to the first of these objects, I am happy in being able to state that the proposed concert of measures between His Majesty and the United States, so far from being unacceptable to Count Nesselrode, is considered by him, and principally for the same reasons which are assigned in your despatch, as the most agreeable mode in which the question could be brought under discussion.

In regard to the second object, finding that Count Nesselrode received so favourably my intimation of the course which we were about to pursue, I thought that I should best learn whether the Russian Government was prepared to proceed immediately to negotiation if I suggested to him, as I did, the facilities which it would probably afford to all parties if, instead of leaving to His Majesty the perhaps difficult task of originating a proposition upon the subject, which would be at the same time satisfactory both to the United States and to Russia, the Imperial Government themselves should propose some arrangement for our consideration, which, while it might protect the legitimate commercial interests of His Imperial Majesty's subjects, might also effectually save what was the great object of the negotiation—the dignity and rights both of His Majesty and the other Maritime Powers of the world.

Count Nesselrode received this suggestion exactly as I could have wished, and he seemed fully sensible of the delicacy shown towards the Imperial Government in proposing such a course. He said that he thought that he should probably receive his Imperial Majesty's orders to instruct M. Poletica (who, from his long residence in America, and his repeated discussions with the Government of the United States upon the subject, is supposed to be the person here who is most conversant with the whole question) to prepare, during the absence of the Emperor, such materials as may enable the Imperial Government, immediately upon the Emperor's return to St. Petersburgh, to shape some such proposition as that which I had suggested, but he did not give me any reason to suppose that M. Poletica would be authorized to conclude an arrangement, or that anything could be definitively settled till after his own return.

In the meantime, the American Minister here has not yet received the instructions referred to by Mr. Stratford Canning in his letter to you of the 3rd May, a copy of which is inclosed in your despatch No. 12. I have, however, apprized him of the wish of his Government to act in concert with that of His Majesty in this business, of His Majesty's readiness to accede to this wish, and of the probability of his receiving, in the course of a very short time, precise instructions upon the subject. From the few general conversations which I have had with Mr. Middleton, he does not seem at all desirous of pressing hardly upon the Imperial Government, and he appears to think that, if any sufficient public disavowal of the pretensions advanced in the Ukase can be obtained, his own Government will be perfectly ready to lend themselves to whatever course may best save the feelings and the pride of Russia.

Mr. Middleton now tells me, what I was not before aware of, that he had last year, by the direction of the President, several interviews with Count Nesselrode and Count Capodistrias upon the subject of this Ukase, and that it was at length agreed that he should inquire officially what were the intentions of the Imperial Government in regard to the execution of it, an assurance being previously given that the answer which he should receive would be satisfactory. Mr. Middleton has been good enough to furnish me with a copy of this answer, which I
41 now inclose. As, however, he considers the communication of the paper as personally confidential, I take the liberty of requesting that no public use may be made of it.

In regard to the second part of this question, that which relates to the territorial claim advanced by Russia in respect to the north-west coasts of North America, I have explained to Count Nesselrode that the United States making no pretension to territory so high as the 51st degree of north latitude, the question rests between His Majesty and the Emperor of Russia alone, and becomes therefore a matter for separate settlement by their respective Governments.

I have suggested to him that this settlement may perhaps be best made by Convention, and I have declared our readiness to accede to one framed either upon the principle of joint occupancy or demarcation of boundary as the Russian Government may itself prefer, intimating, however, that in our view the latter is by far the most convenient. Count Nesselrode immediately and without hesitation declared himself to be entirely of that opinion, and he assured me that the chief if not the only object of the Imperial Government was to be upon some certainty in this respect.

This conversation took place before I had received your private letter in cypher of the 25th of last month, which reached me on the 11th instant by post. I had, however, taken upon myself to abstain from bringing forward any suggestion that the territorial arrangement should be made for an expirable period, as I thought it possible that such an arrangement might, in the end, be found to be inconvenient, and as it appeared to me that it was a proposition which I should at all events reserve for a later period of the discussion, when it might, in case of difficulties, be found an useful instrument of negotiation.

In a second interview which I have had with Count Nesselrode upon the subject of this separate negotiation, I told him that our pretensions had, I believed, always extended to the 59th degree of north latitude, but that a line of demarcation drawn at the 57th degree would be entirely satisfactory to us, and that I believed that the Russian Government had in fact no Settlements to the southward of that line. I am not, however, quite sure that I am right in this last assertion, as the Russian Settlement of Sitka, to which I am told that the Russian Government pretends to attach great importance, is not laid down very precisely in the Map published in 1802 in the Quartermaster-General's Department here, or laid down at all in that of Arrowsmith, which has been furnished to me from the Foreign Office. Be this, however, as it may, Count Nesselrode did not appear to be at all startled by the proposition. He said that he was not enough acquainted with the subject to give an immediate answer to it, but he made a Memorandum of what I said, and I hope shortly to be able to ascertain how far this Government may be inclined to accept a more formal proposition founded upon this basis.

I have, &c. (Signed) CHARLES BAGOT.

P. S.—Since writing the above I have again seen Count Nesselrode, who has informed me that he has received the Emperor's commands to put M. Poletica in direct communication with Mr. Middleton and myself upon the subject of that part of the Ukase in which it is proposed that we should act conjointly whenever Mr. Middletown shall have received the instructions which he expects from his Government.

C. B.

[Inclosure in No. 31.]

Count Nesselrode to Mr. Middleton.

ST. PÉTERSBOURG, *ce 1er Août, 1822.*

Le Soussigné, Secrétaire d'État, dirigeant le Ministère des Affaires Étrangères, s'est empressé de mettre sous les yeux de l'Empereur la note que Mr. Middleton, Envoyé Extraordinaire et Ministre Plénipotentiaire des États-Unis d'Amérique, lui a adressée le 27 Juillet, afin de rappeler l'attention du Ministère Impérial sur la correspondance qui a eu lieu entre l'Envoyé de Russie à Washington et le Gouvernement des États-Unis, concernant certaines clauses du Règlement émané le 4 (16) Septembre, 1821, et destiné à protéger les intérêts du commerce Russe sur la côte nord-ouest de l'Amérique Septentrionale.

Animé du désir constant de maintenir dans toute leur intégrité les relations
42 amicales qui subsistent entre la Cour de Russie et le Gouvernement des États-Unis, l'Empereur s'est plu à prévenir les vœux que viennent de lui être témoignés. Déjà depuis un mois M. le Général-Major Baron de Tuyll, nommé au poste qu'occupoit M. de Poletica, a reçu l'ordre de poursuivre, immédiatement après son arrivée à Washington, la tâche importante que son prédécesseur auroit également remplie, si l'état de santé lui avoit permis de prolonger son séjour en Amérique.

Ne doutant pas des dispositions amicales que le Gouvernement Américain apportera aux négociations que le Général Tuyll va ouvrir; et assuré d'avance que par une suite de ces mêmes négociations les intérêts du commerce de la Compagnie Russe-Américaine seront préservés de toute lésion, l'Empereur a fait munir les vaisseaux de la marine Impériale qui font et feront la croisière sur la côte nord-ouest des instructions les plus analogues au but que les deux Gouvernemens aimeront à atteindre par des explications dirigées de part et d'autre, dans un esprit de justice, de concorde, et d'amitié.

En écartant ainsi de son côté toute chance qui auroit pu mener aux voyes de fait que le Gouvernement Américain semble appréhender de loin, Sa Majesté Impériale se plaît à espérer que le Président des États-Unis adoptera successivement des mesures que sa sagesse lui montrera comme les plus propres à rectifier toutes les erreurs accréditées par une malveillance qui cherche à dénaturer les intentions et à compromettre les rapports intimes des deux Gouvernemens.

Du moment où la marine et le commerce des États-Unis seront convaincus que l'on s'occupe respectivement des questions qui se sont élevées au sujet du Règlement du 4 (16) Septembre, dans la ferme résolution de les décider d'un commun accord, sous les auspices du bon droit et d'une amitié inaltérable; dès ce moment, la surveillance dont se trouvent chargés, en vertu des nouvelles instructions, les vaisseaux de la marine Impériale, qui se rendront sur le nord-ouest d'Amérique, ne sauroit jamais motiver de fâcheuses complications.

C'est en se livrant à cette certitude que Mr. Middleton voudra bien sans doute partager, qu'il ne reste plus au Soussigné qu'à ajouter aux communications qu'il a eu ordre de faire en réponse à la note du 21 Juillet l'assurance de sa considération très distinguée.

NESSELRODE.

No. 32.

Sir C. Bagot to Mr. G. Canning.—(Received November 17.)

[Confidential.]

No. 48.] ST. PETERSBURGH, *October 17 (29), 1823.*

SIR: Mr. Hughes, the American Chargé d'Affaires at Stockholm, arrived here on the 16th instant, and has delivered to Mr. Middleton the instructions which I had already led him to expect from his Gov-

ernment upon the subject of the Imperial Ukase of the 4th September, 1821, and upon the concert of measures which the United States are desirous of establishing with Great Britain in order to obtain a disavowal of the pretentions advanced in that Ukase by this country.

As Mr. Hughes was the bearer of instructions upon the same subject to the American Minister in London, I may, I am aware, presume that Mr. Rush will have already communicated to you the view taken of this question by the United States, and I think it probable that you may have already anticipated this despatch by framing for my guidance such further instructions as, under that view, it may be thought necessary that I should receive. It may, nevertheless, be very desirable that I should lose no time in reporting to you the substance of some conversations which Mr. Middleton has held with me since the arrival of Mr. Hughes, and it is principally for this purpose that I now dispatch the messenger Walsh to England.

Although Mr. Middleton has not communicated to me the instructions which he has received, I have collected from him, with certainty what I had long had reason to suspect, that the United States, so far from admitting that they have no territorial pretensions so high as the 51st degree of north latitude, and no territorial interest in the demarcation of boundary between His Majesty and the Emperor of Russia to the north of that degree are fully prepared to assert that they have at least an equal pretension with those Powers to the whole coast
43 as high as the 61st degree, and an absolute right to be parties to any subdivision of it which may now be made.

Unless I greatly misconceive the argument of Mr. Middleton, it is contended by the American Government that, in virtue of the Treaty of Washington, by which the Floridas were ceded by Spain to the United States, the latter are become possessed of all claims, whatever they might be, which Spain had to the north-west coasts of America, north of the 42nd degree of north latitude, and that when Great Britain, in the year 1790, disputed the exclusive right of Spain to this coast, the Court of Russia (as, indeed, appears by the declaration of Count Florida Blanca, and as it would, perhaps, yet more clearly appear by reference to the archives of the Foreign Department here) disclaimed all intention of interfering with the pretensions of Spain, and, consequently, all pretensions to territory south of the 61st degree, and that, therefore, any division of the coast lying between the 42nd and 61st degrees ought in strictness to be made between the United States and Great Britain alone.

Mr. Middleton, however, admits that the United States are not prepared to push their pretensions to this extent. He says that they are ready to acknowledge that no country has any absolute and exclusive claim to these coasts; and, that it is only intended by his Government to assert that, as heirs to the claims of Spain, the United States have, in fact, the best pretensions which any of the three Powers interested can urge.

Assuming, upon these grounds, their right to a share in the division, the United States, it seems, desire that, the division being made, the three Powers should enter into a joint Convention mutually to grant to each other, for some limited period, renewable at the pleasure of the parties, the freedom of fishery and of trade with the natives, and whatever other advantages the coasts may afford; and Mr. Middleton has confidentially acquainted me that he has in fact received from his Government the "projet" of a tripartite Convention to this effect, and he has communicated to me a copy, which I now inclose, of the full

Powers with which he has been furnished to negotiate such Convention with the Plenipotentiaries of Great Britain and Russia.

As neither the instructions nor the powers which I have received in regard to this question were framed in contemplation of any such pretension as that which is now put forward by the American Government, I have explained to Mr. Middleton how impossible it is for me to proceed further with him in the business until I shall have received fresh instructions from you, and I have, with his knowledge, informed M. Poletica that I must, for the present, suspend the conferences (upon the territorial part of the question at least) into which he and I had already entered.

I cannot disguise from myself that, judging from the conversations which I have had, both with Count Nesselrode and M. Poletica, upon the general subject of the Ukase, these new, and, I must think, unexpected pretensions of the United States are very likely to render a satisfactory adjustment of the business a matter of more difficulty than I at first apprehended.

A full disavowal by Russia of her pretension to an exclusive maritime jurisdiction in the North Pacific Ocean will, I have no doubt, be obtained; but I am strongly inclined to believe that this Government will not easily be brought to acknowledge the justice of any claim of the United States to any part of the territory in question north of the 51st degree, and, I am still more strongly inclined to believe, that a division once made, this Government will never permit the United States, if they can prevent it, either to fish, settle, or trade with the natives within the limits of the territory which may be alloted to Russia.

I take this opportunity of inclosing to you a copy of the note which I received from Count Nesselrode the day before he left St. Petersburgh, acquainting me that the Emperor had appointed M. Poletica to enter into preliminary discussion with Mr. Middleton and myself, upon the different questions growing out of the Ukase.

As it appeared by this note that M. Poletica was not empowered to treat, or indeed to pledge his Government to any precise point, I have abstained from entering with him as fully into the matter as I should have done had his powers been more extensive.

I had, however, two conversations with him previously to Mr. Middleton's receipt of his last instructions, upon the subject of territorial boundary as it regarded ourselves, and I then gave him to understand that the British Government would, I thought, be satisfied to take Cross Sound, lying about the latitude of 57½°, as the boundary between the two Powers on the coast, and a meridian line drawn from the head of Lynn Canal, as it is laid down in Arrowsmith's last Map, or about the 135th degree of west longitude, as the boundary in the interior of the continent.

44 M. Poletica, not being authorized to do more than take any suggestion of this kind *ad referendum*, I am of course not yet able to inform you, as I am instructed to do by your despatch No. 12, how far a more formal proposition on this basis, or on the basis of a line drawn at the 57th degree, as suggested in that despatch, might be agreeable to the Imperial Government. M. Poletica seemed to suggest the 55th degree as that which, in his opinion, Russia would desire to obtain as her boundary; and he intimated that it would be with extreme reluctance that Russia would, he thought, consent to any demarcation which would deprive her of her Establishment at Sitca, or rather at Novo-Archangelesk.

Still, I should not altogether have despaired of inducing this Government to accept Cross Sound as the boundary; and though I am aware that in suggesting this point I put in a claim to something more than I am instructed to do in your despatch above referred to, I thought that it might be for the advantage of the negotiation if I reserved the proposition of the 57th degree to a later period of it, and, judging from the Map, it appeared to me that it might be desirable to obtain, if possible, the whole group of islands extending along the coast.

But the discussion of this and all other points connected with settlement of boundary, seems necessarily to be suspended for the moment by the nature of Mr. Middleton's late instructions, and I shall not think it safe to venture further into the question until I shall have learnt the opinion of His Majesty's Government upon the pretensions advanced in those instructions by the United States.

I have, &c. (Signed) CHARLES BAGOT.

[Inclosure 1 in No. 32.]

Full Powers to Mr. Middleton.

James Monroe, President of the United States of America. To all to whom these presents may come, greeting:

Know ye that reposing special trust and confidence in the integrity, prudence, and abilities of Henry Middleton, Envoy Extraordinary and Minister Plenipotentiary of the United States at the Court of His Imperial Majesty the Emperor of All the Russias, I have invested him with full and all manner of power, for, and in the name of the United States to meet and confer with any person or persons furnished with like powers on the part of His said Imperial Majesty, and with him or them to negotiate and conclude a Convention or Conventions, Treaty or Treaties, of and concerning the commerce and navigation of the two countries; of and concerning their respective rights and claims in respect to navigation, fishery, and commerce on the north-west coast of America, and the ocean and islands thereto adjoining or appertaining; of and concerning the abolition of the African Slave Trade; and of and concerning the principles of maritime war and neutrality. And I do further invest him with full power also to meet and confer on the said subjects with any person or persons furnished with like powers on the part of His Majesty the King of the United Kingdom of Great Britain and Ireland; and with the said Russian and British Plenipotentiaries jointly, to conclude a Treaty or Treaties, Convention or Conventions, in relation to the respective rights and claims of the three Powers in, and to, the said navigation, fishery, commerce, and territorial possessions on the said north-west coast of America, and adjoining ocean and islands, or in relation to the abolition of the African Slave Trade; or in relation to the principles of maritime war and neutrality; he, the said Henry Middleton, transmitting any and every such Convention or Treaty, whether concluded jointly with British and Russian, or severally with Russian Plenipotentiaries, to the President of the United States for his ratification, by and with the advice and consent of the Senate of the United States, if the same shall be given.

In testimony whereof I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the 29th day of July, A. D. 1823, and of the Independence of the United States of America the forty-eighth.

(Signed) JAMES MONROE.

By the President:
(Signed) JOHN QUINCY ADAMS,
Secretary of State.

[Inclosure 2 in No. 32.]

Count Nesselrode to Sir C. Bagot.

ST. PÉTERSBOURG, *le 22 Août, 1823.*

M. l'AMBASSADEUR: En quittant St. Pétersbourg, l'Empereur m'a chargé d'annoncer à votre Excellence que, m'ayant donné ordre de la suivre dans son voyage, elle avoit autorisé M. le Conseiller d'État Actuel de Poletica à entamer avec vous, M. l'Ambassadeur, des pourparlers relatifs aux différends qui se sont élevés entre la Russie et l'Angleterre, à la suite du nouveau Règlement donné à la Compagnie Russe-Américaine par l'Oukase de Sa Majesté Impériale en date du 4 (16) Septembre, 1821.

Ces pourpalers auront pour but de préparer les voies à l'ajustement définitif de ces différends, et je ne doute point qu'ils ne facilitent ce résultat si vivement désiré par l'Empereur.

Je saisis, &c. (Signed) NESSELRODE.

No. 33.

Ship-owners' Society to Mr. G. Canning.—(Received November 24.)

NEW BROAD STREET, *November 19, 1823.*

SIR: In the month of June last you were pleased to honour me with an interview on the subject of the Russian Ukase prohibiting foreign vessels from touching at or approaching the Russian Establishments along the north-west coast of America thereinmentioned, when you had the goodness to inform me that a representation had been made to that Government, and that you had reason to believe that the Ukase would not be acted upon; and very shortly after this communication I was informed, on what I considered undoubted authority, that the Russian Government had consented to withdraw that unfounded pretension.

The Committee of this Society being about to make their Annual Report to the ship-owners at large, it would be satisfactory to them to be able to state therein that official advices had been received from St. Petersburgh that the Ukase had been annulled; and should that be the case, I have to express the hope of the Committee to be favoured with a communication from you to that effect.

I have, &c.

(Signed) GEORGE LYALL, *Chairman.*

No. 34.

Mr. G. Canning to Count Lieven.

[Private and Confidential.]

FOREIGN OFFICE, *November 25, 1823.*

MY DEAR COUNT LIEVEN: I have received the inclosed letter from the Ship-owners' Society; my answer to it must be in writing, and not long after it will be in print.

I wish, therefore, that you should know beforehand what the nature of it will be, and for that purpose I inclose a draft of it which I will be obliged to you if you will return with any remark that may occur to you, returning also Mr. Lyall's letter.

I have, &c. (Signed) GEO. CANNING.

No. 35.

Count Lieven to Mr. G. Canning.—(Received November .)

[Particulière et Confidentielle.]

ASHBURNHAM HOUSE, *le 26 Novembre, 1823.*

MON CHER M. CANNING: Je vous suis infiniment reconnaissant de la communication que vous avez bien voulu me faire. En vous restituant ci-près les deux annexes jointes à votre lettre, et en me prévalant de la permission que vous avez eu la bonté de me donner, je prends la
46 liberté de vous observer: qu'il serait désirable que le passage marqué au crayon dans la Minute de votre réponse fut substitué par l'annonce, "que les nouvelles instructions données aux Commandants des croisières Russes sont conçues dans l'intention de prévenir les voies de fait entre les vaisseaux Russes et ceux des autres nations, et qu'en général elles peuvent être considérées comme de nature à faire suspendre provisoirement l'effet de l'Ukase Impérial du 4 Septembre, 1821."

Je crois que par ces expressions l'objet de tous serait également atteint.

Veuillez, &c. (Signed) LIEVEN.

No. 36.

Foreign Office to Ship-owners' Society.

FOREIGN OFFICE, *November 26, 1823.*

SIR: I am directed by Mr. Secretary Canning to acknowledge the receipt of your letter of the 19th instant expressing a hope that the Ukase of September 1821 had been annulled.

Mr. Canning cannot authorize me to state to you in distinct terms that the Ukase has been "*annulled*," because the negotiation to which it gave rise is still pending, embracing, as it does, many points of great intricacy as well as importance.

But I am directed by Mr. Canning to acquaint you that orders have been sent out by the Court of St. Petersburgh to their Naval Commanders calculated to prevent any collision between Russian ships and those of other nations, and, in effect, suspending the Ukase of September 1821.

I am, &c.

(Signed) F. CONYNGHAM.

No. 37.

Mr. G. Canning to Sir C. Bagot.

No. 2.] FOREIGN OFFICE, *January 15, 1824.*

SIR: A long period has elapsed since I gave your Excellency reason to expect additional instructions for your conduct in the negotiation respecting the Russian Ukase of 1821.

That expectation was held out in the belief that I should have to instruct you to combine your proceedings with those of the American Minister; and the framing such instructions was, of necessity, delayed until Mr. Rush should be in possession of the intentions of his Government upon the subject.

Upon receipt of your Excellency's despatch No. 48, reporting the arrival of Mr. Hughes at St. Petersburgh, with the instructions of the Government of the United States to Mr. Middleton, I applied to Mr. Rush for information as to the tenour of those instructions. I then found, what I had not before been led to suspect, that Mr. Rush had himself authority to enter into negotiations with us as to the respective claims of Great Britain and the United States on the north-west coast of America; although he does not appear to have been instructed to invite such negotiation here, if we should prefer leaving it to be conducted at St. Petersburgh.

It seemed, however, that it would greatly facilitate your Excellency's task at St. Petersburgh if we could come to some satisfactory understanding with Mr. Rush on the principles and leading points of the negotiation, and that, at all events, it was advisable to ascertain so much from Mr. Rush as might enable us to judge whether it would or would not be expedient to agree to the proposal of the United States for combining our several negotiations with Russia into one.

Such a combination had indeed already been proposed by us with respect to so much of our respective discussions with Russia as turned upon the maritime pretension of the Russian Ukase. But that proposal had not been made in contemplation of the territorial question to which the pretensions of the United States have given a new and complicated character.

The object in applying jointly to Russia for a disavowal or qualification of her maritime pretension was at once to simplify and to soften to Russia that act of qualification or disavowal, by enabling Russia
47 to satisfy both Powers at once, without special and separate concession. But as, in the question of territorial limits, Russia, at whatever point her pretensions might be stopped, could have but one of the two Powers for her neighbour, there did not seem to be any obvious advantage in bringing both to bear upon her together in the settlement of those limits.

It is true that as, while we confine upon the Russian territory to the north, we also confine upon that of the United States to the south, we must at one time or other come to a settlement with each of those Powers. But there is no obvious or cogent necessity for making those settlements simultaneous, especially as we have already a Convention subsisting with the United States which suspends the necessity of any definite settlement with that Government for five years yet to come.

Whether, therefore, your Excellency should be empowered, according to the desire of the Government of the United States, to negotiate and conclude a tripartite arrangement with Russia and the United States, or should be instructed to pursue that negotiation with Russia singly, according to the tenour of your present powers, was a question to be determined in a great measure by the more or less probability of a satisfactory understanding between Great Britain and the United States as to their relative as well as their joint concerns in such negotiation.

Now we have good reason to believe that, in respect to the question of territorial dominion between us and Russia, an arrangement may be agreed upon which will satisfy the wishes and secure the convenience of both parties by a line of demarcation to be drawn between the southernmost Settlement of Russia and the northernmost post of the North-West Company.

The most southern Establishment of Russia on the north-west coast of America is Sitka, which is not laid down in our latest Maps with sufficient exactness, but which appears by the Russian Map published

in 1807 to be situated, as the inclosed copy of a letter from Mr. Pelly, Chairman of the Hudson's Bay Company, also represents it, in latitude 57°, and not (as the Map of which a copy was inclosed to your Excellency indicates) on the continent, but on a small island of the same name at the mouth of Norfolk Sound; the larger islands contiguous thereto, forming (what is called by Vancouver) King George's Archipelago, are separated from each other by a Strait, called Chatham Strait, and from the mainland by another Strait, called Stephen's Strait or passage. Whether the Russians have extended their Settlements to these larger islands is not known, but Mr. Pelly positively avers that they have no Settlement on the mainland, nor any commerce to the eastward of the coast. He suggests, therefore, either the channel between the islands, or that between the islands and the mainland, as the most desirable line of demarcation to the eastward, which being agreed to, the line to the southward might be drawn so as to comprehend Sitka and all the Russian Settlements upon the islands. If this agreement could be obtained, it would effectually prevent all danger of a collision with Russia; and the United States not intending, as it is understood, to urge any claim in opposition to that of actual occupancy, whether on the part of Russia or of Great Britain, in the latitudes in which the claims of Great Britain and Russia come in contact, the intervention of the United States in such an arrangement could be necessary only as an Umpire.

Such an intervention in this case is not likely to be required, on account of an irreconcilable conflict between Great Britain and Russia; nor would a Power whose pretensions are (theoretically at least) in conflict with both parties be the fittest for such an office.

Your Excellency's despatch No. 48 describes latitude 55° as the point at which M. Poletica appeared to wish that the line of demarcation between Russia and Great Britain should be drawn. By a Memorandum which I have received from Mr. Rush of what his Government would propose as a general settlement, it appears that latitude 55° is the point which the United States likewise have proposed for that same line of demarcation.

This coincidence certainly argues either a foregone understanding between Russia and the United States, or a disposition on the part of the United States to countenance and promote what they know to be the desire of Russia.

When to this statement I add that the United States propose, according to the aforesaid Memorandum of Mr. Rush, to draw the line of demarcation between themselves and Great Britain at latitude 51°, the point at which the Russian pretension, as set forth in the Ukase of 1821, terminates, it does not seem very uncharitable to suppose that the object of the United States in making a selection, otherwise wholly arbitrary, of these two points of limitation for British dominion, was to avoid collision with Russia themselves, and to gratify Russia
48 at the expense of Great Britain. There is obviously no great temptation to call in such an Arbiter, if the partition between Russia and ourselves can be settled, as no doubt it can, without arbitration.

By admitting the United States to our negotiation with Russia, we should incur the necessity of discussing the American claim to latitude 51° at the same time that we were settling with Russia our respective limits to the northward.

But the question of the American claim is for the present merged in the Convention of 1818; and it would be a wanton increase of difficul-

ties to throw that Convention loose, and thus to bring the question which it has concluded for a time into discusion precisely for the purpose of a coincidence, as embarrassing as it is obviously unnecessary.

If Russia, being aware of the disposition of the United States to concede to her the limit of latitude 55°, should on that account be desirous of a joint negotiation, she must recollect that the proposal of the United States extends to a joint occupancy also, for a limited time, of the whole territory belonging to the three Powers; and that the Convention now subsisting between us and the United States gives that joint occupancy reciprocally to us in the territory to which both lay claim.

To this principle it is understood the Russian Government object; nor, so far as we are concerned, should we be desirous of pressing it upon them; but as between ourselves and the United States we are not prepared to abandon it, at least for the term for which the Convention of 1818 has to run. There would be some awarkwardness in a tripartite negotiation which was not to be conducted and concluded in all its parts upon an uniform principle.

These reasons had induced us to hesitate very much as to the expediency of acceding to the proposition of the United States for a common negotiation between the three Powers; when the arrival of the Speech of the President of the United States at the opening of the Congress supplied another reason at once decisive in itself, and susceptible of being stated to Mr. Rush with more explicitness than those which I have now detailed to your Excellency, I refer to the principle declared in that Speech, which prohibits any further attempt by European Powers at colonization in America.

Upon applying to Mr. Rush for an explanation of this extraordinary doctrine, I found him unprovided with any instructions upon it. He said, indeed, that he had not heard from his Government since the opening of the Congress, and had not even received officially a copy of the President's Speech.

His conviction, however, was, that against whatever power the President's doctrine was directed, it could not be directed against us. He appealed in support of that conviction to the existence of the Convention of 1818, by which we and the United States hold for a time joint occupancy and common enjoyment of all the territory on the northwest coast of America above latitude 42°.

It was obviously the impression on Mr. Rush's mind that this pretension on the part of his Government was intended as a set-off against the maritime pretension of the Russian Ukase.

I do not mean to authorize your Excellency to report this construction at St. Petersburgh as that of the American Minister, but you will have no difficulty in stating it as one to which we think the President's Speech liable, as that indeed which appears to us to be by far the most probable construction of it; as such, it furnishes a conclusive reason for our not mixing ourselves in a negotiation between two parties whose opposite pretensions are so extravagant in their several ways as to be subject not so much of practical adjustment as of reciprocal disavowal.

Mr. Rush is himself so sensible of the new consideration which is introduced into the negotiation by this new principle of the President's that although he had hitherto urged with becoming pertinacity the adoption of the suggestion of his Government, he has, since the arrival of the President's Speech, ceased to combat my desire to pursue the course already begun of a separate negotiation at St. Petersburgh, and

has promised to write by this messenger to Mr. Middleton to prepare him for your Excellency's continuing to act upon your former instructions.

It remains, therefore, only for me to direct your Excellency to resume your negotiation with the Court of St. Petersburgh at the point at which it was suspended in consequence of the expected accession of the United States, and to endeavour to bring it as speedily as possible to an amicable and honourable conclusion.

The questions at issue between Great Britain and Russia are short and simple.

The Russian Ukase contains two objectionable pretensions: first, an extravagant assumption of maritime supremacy; secondly, an unwarranted claim of territorial dominion.

49 As to the first, the disavowal of Russia is, in substance, all that we could desire. Nothing remains for negotiation on that head but to clothe that disavowal in precise and satisfactory terms. We would much rather that those terms should be suggested by Russia herself than have the air of pretending to dictate them; you will therefore urge Count Nesselrode to furnish you with his notion of such a declaration on this point as may be satisfactory to your Government. That declaration may be made the preamble of the Convention of limits.

As to the territorial question, I have already stated that the line of demarcation the most satisfactory to us would be one drawn through "Chatham Strait," the channel separating the island on which Sitka is situated from the island to the eastward of it, or if the Russians have establishments on that island also, then through the channel called "Stephen's Passage," which separates the whole archipelago from the mainland.

If one or the other of these channels cannot be obtained as the boundary, then the line must be drawn on the mainland to the north of the northernmost post of the North-West Company from east to west till it strikes the coast, and thence may descend to whatever latitude may be necessary for taking in the island on which Sitka stands.

It does not appear from your Excellency's despatch how far the line proposed by M. Poletica to be drawn at latitude 55° was intended to run to the eastward. If to the Rocky Mountains it, obviously, would be wholly inadmissible by us, inasmuch as the communication of the North-West Company from Canada through those mountains with the whole of the north-west country is in a higher latitude than 55°.

Neither has Russia any claim whatever to any inland territory approaching that latitude. She has no occupancy inland. Mr. Pelly's Report denies that she has any even on the coast. And it is to the coast alone that discovery could, in the nature of things, give any title.

It is absolutely essential, therefore, to guard against any unfounded pretension, or any vague expectation of Russia to the eastward, and for this purpose it is necessary that whatever degree of latitude be assumed, a definite degree of longitude should also be assigned as a limit between the territorial rights of the two Powers.

If your Excellency can obtain the strait which separates the islands from the mainland as the boundary, the prolongation of the line drawn through that strait would strike the mainland near Mount Elias—the lowest point of unquestioned Russian discovery. But if that were too much to insist upon, the 135th degree of longitude, as suggested by your Excellency, northward from the head of Lynn's Harbour, might suffice.

It would, however, in that case, be expedient to assign, with respect to the mainland southward of that point, a limit, say, of 50 or 100 miles from the coast, beyond which the Russian posts should not be extended to the eastward. We must not on any account admit the Russian territory to extend at any point to the Rocky Mountains. By such an admission, we should establish a direct and complete interruption between our territory to the southward of that point, and that of which we are in possession to the eastward of longitude 135° along the course of the Mackenzie River.

As your Excellency had already made so much way in previous discussion, it is to be hoped that, on resuming the negotiation, very little time need be required to bring it to a conclusion. It is extremely important to conclude it as quickly as possible.

It being once decided not to negotiate jointly with the United States, we must take care to be out of the way while the discussions between Russia and the United States are going on; and the example of having come to agreement with us promptly and amicably on both points of litigation would, perhaps, be not less valuable to Russia in her subsequent discussions with the United States, than would have been the facility which we had in contemplation for Russia when we originally proposed that her disavowal of the maritime principle should be addressed simultaneously to us both.

At that time our claim to such disavowal and the claim of the United States were precisely alike; Russia had nothing to plead against either of us as a compensation for those claims. The principle put forth by the President of the United States has introduced a difference between the respective situations of the United States and Great Britain with respect to Russia which did not exist before. In the former state of things it might have been expedient, both for ourselves and for the United States, as well as less distasteful to Russia, to return an answer common to us both; but, as things stand now, Russia might naturally wish to qualify her answer to the United States with some reciprocal demand of explanation.

The only point of view in which the United States could now
50 insist upon interfering with, or even taking cognizance of, the negotiation between us and Russia would be in order to see that the pretensions on the north-west coast of America derived to the United States from Spain, through the Treaty of 1819, were not prejudiced by our separate Agreement.

That object cannot be more effectually provided for than by inserting into our Convention with Russia, as a protection for the claims of the United States, that part of the IIIrd Article of the Convention concluded by us with the United States in 1818 which was inserted in that Convention for the protection of the claims of Spain herself in the rights which she had not then ceded. By that Article it is stipulated that the agreement between the two Contracting Parties "should not be taken to affect the claims of any other Power or State in any part of the said country." Such a clause your Excellency will voluntarily propose to insert in the Convention which you are to conclude with Count Nesselrode; and you will apprize Mr. Middleton of your intention of proposing that insertion.

I am, &c., (Signed) GEORGE CANNING.

[Inclosure 1 in No. 37.]

Hudson's Bay Company to Mr. G. Canning.

HUDSON'S BAY HOUSE, LONDON, *January 8, 1824.*

SIR: In reference to the conversation which I had the honour of having with you on Monday last, I beg to call your attention to my letter of the 25th September, 1822, on the subject of the trading stations of the Hudson's Bay Company in the countries on the north-west coast of America.

In addition to what is therein stated, I have to inform you that it appears, by the intelligence received this last season, that our traders are extending their posts still farther to the northward in the country to the west of the Rocky Mountains.

It may be proper for me also to mention, that the Hudson's Bay Company have a chain of trading posts on the McKenzie's River as far north as about 67° north latitude, and that Indians trade at those posts who come from the countries lying to the west of that river and to the north of 60° north latitude, and that our traders are extending their posts to the westward into that country.

The Russian station called "Sitka" is an island, and can give no claim by occupation to any part of the continent. But, even if they had stations on the sea coast of the continent, this could not be held to give to Russia a better claim to a southern boundary on a line of latitude eastward than our stations in 67° north latitude gives to Great Britain to one on a line of latitude westward.

From a want of accurate knowledge of the courses of the rivers or ranges of mountains, it is difficult to suggest any satisfactory boundary in the interior of the country in question, and (if consistent with your views) it might, perhaps, be sufficient at present to settle a boundary on the coast only and the country 50 or 100 miles inland, leaving the rest of the country to the north of that point and to the west of the range of the mountains, which separate the waters which fall into the Pacific from those which flow to the east and north, open to the traders of both nations.

In this case, I would suggest the northern end of the inlet called Chatham Straits as the most southern point at which the coast boundary ought to be fixed. This is but a little (if at all) to the north of the most northern trading station in the country to the west of the Rocky Mountains.

The islands lying to the west of Chatham Straits may be given to Russia; but the Russians not to trade either on the coast or in the interior south of the boundary, and the British not to trade on the coast north of it.

If it is considered proper to fix at present the interior boundary, I would suggest a line drawn from the above-mentioned point at Chatham Straits due north, until it strikes the range of mountains which separate the waters (being the supposed continuation of the range called the Rocky Mountains), and thence to follow the ridge of these mountains to the Frozen Ocean.

This is the greatest concession which I think it would be advisable to make to Russia with regard to the interests of the British fur trade, and it would be desirable, as the means of preventing the risk of collision between the traders of
51 the two nations, if Mount Elias on* the coast at 60° north latitude was taken as the boundary point, from whence the line of longitude should be drawn.

I have, &c.

J. H. PELLY.

[Inclosure 2 in No. 37.]

Memorial relating to the North-West Coast of America.

The principal Settlements of the Russian Fur Company in the North Pacific Ocean are on the Aleutian or Fox Islands, the Island of Kodiak being the great entrepôt or magazine of the peltries, which are collected in the neighbouring islands and from Cook's Inlet, Prince William's Sound, where, however, it does not appear the Russians have establishments inland, but the furs are collected by a coasting trader in the "baidarkat" or canoes.

Mr. G. S. Langsdorff, who accompanied Captain Krusenstern in his voyages in the years 1803, 1804, 1805, 1806, and 1807, in giving an account of the fur trade, gives the following statement and history of the Settlement of Lichta:

"The constant decrease in the number of sea otters upon the coast of Kamschatka induced the Russians to extend their possessions eastward, first to the islands between the coast of Asia and America, and finally to the north-west coast of America.

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* *Qy.* or.

"Norfolk Sound appearing to present a favourable spot for an establishment, it was considered expedient to take possession of it. A fortress, with proper warehouses and dwelling-houses, were built. . . . . After a time, the natives rose upon the Russians and killed almost the whole party. In the year 1804, the Director, M. de Rosanoff, again took possession of it with a large force, building a fortress, and giving it the name of Kerr Archangel.

If present occupation gives to a Government the right of possession, the occupancy of Norfolk Sound could not give to Russia a claim to the coast bordering on the islands or the interior mainland, and it does not appear that Russia has any ports or Settlements on the north west coast of America which would give to Russia any right of claim to the country by present occupancy, except at a Settlement called Bodego, which is on the coast of New Albion, in latitude 38° 30′.

The country of New Albion is covered with oak-ash pine timber of large dimensions, fit for ship-building, and on the coast of California a very fine description of hemp is found. The land is capable of the highest state of cultivation, producing excellent wheat, potatoes, hemp, and all kinds of vegetables.

The Russians build vessels of large burthen at their Settlement, and, under the pretext of encouraging the fur trade, have encroached so far south; and in the year 1805, they sent a M. de Resankoff to negotiate with the Spanish Government for permission to form an establishment in New California, which negotiation, however, failed.

The Russian Government have, however, never lost sight of this place, and it is supposed are endeavouring to purchase the Californias from Spain; the possession of which would not only enable the Russian Government to form a naval arsenal in the Pacific, and, under the pretext of encouraging the fur trade, to form a hardy race of seamen and bold adventurers, but would give to that Government the power of interfering with the liberties of South America.

Russia can have no claim to the country of New Albion by the right of first discovery. This right is claimed by Great Britain and Spain, but from various authorities it belongs, beyond a doubt, to Great Britain, which it would be of great importance to establish, should Spain have ceded this country to Russia.

In the year 1574, Abraham Artilius, the geographer of the King of Spain, acknowledged that the north-west coast of America was quite unknown, and a few years after this declaration, Queen Elizabeth sent Sir Francis Drake on an expedition round Cape Horn, which he named Queen Elizabeth's Foreland, and he sailed as high as 48°, if not higher, landing at different places, and taking possession of the country, which he called New Albion, and which has been so named ever since.

It would thus appear the Russians have no claim to the coast, or to the mainland on the north-west coast of America, except to the land about Bodega, either
52 by present occupancy or from first discovery, the land, which Icherikoff made in 1741, being the coast of Norfolk Sound, and island, and divided from the mainland by a broad channel, and as it does not appear that Russia has anywhere establishments or posts on the north-west coast of America lower than Prince William's Sound, except Bodega, which could give her the claim to present occupancy.

Great Britain has, however, establishments of posts up to 37°, trading with Indians, to the northward, and a post on Mackenzie's River as high as 67°, which are increasing by expeditions of discovery, and it may fairly, and with great reason, be hoped that Captain Franklin, in his expedition, will discover and take possession, if no Treaty to the contrary is made, of all the coast and country to the westward of Mackenzie's River as far as Icy Cape.

No. 38.

Mr. Enderby to Board of Trade.

PAUL'S WHARF, *February 7, 1824.*

SIR: After the long and patient audience you admitted Mr. Mellish and myself to on the 5th instant I hope you will pardon my intruding on you by letter on the subject of nations claiming boundary-lines of waters to prevent their Colonies being interfered with.

Previous to the Convention which was concluded with Spain in 1790 Mr. Pitt sent to desire I would call on him at the Treasury, which I did; he *asked me* how near the coast of Spanish America in the Pacific Ocean

we fished for whales. I answered, frequently within 3 sea leagues. Mr. Pitt said he could not ask for such a short distance from the Spanish Colonies on the coast of the Pacific Ocean, where all their most valuable gold and silver mines are placed, as they would be great objects for illicit trade, and that Spain was very jealous of any foreign intercourse with their most valuable Colonies. Mr. Pitt said he believed Spain would be satisfied with a boundary-line of 10 sea leagues from the coast, which I acceded to in behalf of the adventurers in the whale fishery.

As I conclude that a boundary-line of waters in the North Pacific Ocean will be agreed to between Great Britain and Russia, I hope I may be pardoned suggesting that there ought not to be any boundary-line in entering into Behring's Straits for the purpose of fishing or of attempting to find a passage through. Behring's Straits are very narrow in all parts, and it would be almost impossible to fish in those straits without being daily within 5 or 6 leagues from the Russian Colonies on the eastern coast of the straits.

All I ask is that we may be protected in all our fair pursuits and enterprizes in killing whales, seals, and other amphibious animals, and in exploring and navigating the most distant and unknown parts of the oceans in search of islands not colonized without control from any foreign Power.

I have, &c. (Signed) SAM. ENDERBY.

No. 39.

Sir C. Bagot to Mr. G. Canning.—(Received April 13.)

No. 23.] ST. PETERSBURGH, *March 17 (29), 1824.*

SIR: It is with a feeling of considerable disappointment that, after a constant negotiation for more than six weeks, after having gone to the utmost limit of your instructions—and after having taken upon myself to go even far beyond them—I should nevertheless have to acquaint you that I have entirely failed in inducing the Russian Government to accede to what I consider to be a fair and reasonable adjustment of our respective pretensions on the north-west coasts of North America, or to the adoption of any line of territorial demarcation which appears to me to be reconcilcable, under the spirit of your instructions, with our legitimate interests in that quarter of the world.

In order that I may put you in complete possession of the whole course of my negotiation upon this subject, and may explain the precise grounds upon which I have felt myself compelled to suspend, for the present, all further proceedings in this business, it will, I fear, be necessary that I should enter into a detail of some length, and that I should load this despatch with several papers which are now become of importance.

It was on the 16th of last month that I had my first conference upon this question with the Russian Plenipotentiaries, Count Nesselrode and M. Poletica. I opened this conference by explaining to the Plenipotentiaries the reasons for which His Majesty had judged it advisable to treat separately upon this matter, rather than, as it had been originally intended, in concert with the Government of the United States. I then laid before them Count Lieven's note to you of the 31st January, 1823,

proposing that the question of strict right should be provisionally waived on both sides, and that the adjustment of our mutual pretensions should be made upon the sole principle of the respective convenience of both countries.

This basis of negotiation being willingly accepted by all parties, I stated that, so far as I understood the wishes and interests of Russia, her principal object must be to secure to herself her fisheries upon the islands and shores of the north-west coasts of North America, and the posts which she might have already established upon them; that, on the other hand, our chief objects were to secure the posts upon the continent belonging to the Hudson's Bay Company, the embouchures of such rivers as might afford an outlet for our fur-trade into the Pacific, and the two banks of the Mackenzie River; that, in the belief that such were our respective objects, I would propose as our boundary a line drawn through Chatham Straits to the head of Lynn Canal, thence north-west to the 140th degree of longitude west of Greenwich, and thence along that degree of longitude to the Polar Sea.

This proposal was made by me verbally, and was taken for consideration by the Russian Plenipotentiaries, who at our next meeting offered a "contre-projet," which I afterwards requested might be reduced to writing, and of which I inclose a copy (Inclosure 1).

In offering this "contre-projet," Count Nesselrode seemed to intimate that, however disposed the Emperor might be to retract pretensions advanced by himself which might be thought to conflict with the interests of other Powers, it would be asking too much of the Imperial dignity to require that pretensions advanced twenty-five years ago by the Emperor Paul, and which had been hitherto undisputed, should be now renounced. I thought it my duty, upon an intimation of this kind being made, to declare at once that all considerations of such a nature were incompatible with the stipulated basis of our negotiation, and that if the question of national dignity was to be touched, I, too, should have much to say upon that head, and should probably find it quite impossible to make those concessions which, upon the simple ground of mutual convenience, I might perhaps without difficulty do. This explicit declaration had its desired effect, and the Russian Plenipotentiaries engaged not to introduce again arguments of this kind into our discussions.

As the "contre-projet" offered to me appeared to be, generally speaking, entirely inadmissible, I drew up such a modification of my original proposal as would, I thought, meet the only reasonable objection made to it (an objection made in conversation by the Russian Plenipotentiaries), viz., the inconvenience which Russia might experience by vessels of the United States claiming a right, under their Convention with Great Britain, to visit the waters lying between King George's Archipelago and the islands and continent to the eastward of it, and which might, in this manner, seriously annoy the subjects of His Imperial Majesty in their pursuits and occupations upon those shores.

This modification of my first proposal will be found in the inclosed paper (Inclosure 2), which I delivered to the Russian Plenipotentiaries at our next Conference.

You will observe that in making the proposal so modified, I, in fact, exceeded, in some degree, the strict letter of your instructions by assigning to Russia the islands lying between Admiralty Island to the north, and Duke of York and Prince of Wales Islands to the south, but I entertained sanguine expectations that such a proposal, coupled with the concession of a line of coast extending 10 marine leagues into the interior of the continent, would have been considered as amply sufficient

for all the legitimate objects which Russia could have in view, and quite as much as she could pretend to with any shadow of real claim or justice.

So far, however, from this being the case, my amended proposal was met at our next Conference by observations which I again requested might be reduced to writing, and which will be found in the inclosed paper (Inclosure 3).

As, in this paper, parts of the main continent to which Russia
54 cannot by possibility have ever acquired any claim, and of which Great Britain is at this moment actually in partial occupation, are offered to His Majesty in the light of concessions, it became necessary for me to reject any such offers as a boon in the most explicit terms, and you will find that I have not failed to do so in the inclosed paper (Inclosure 4), with which I replied to the paper in question.

As, however, I felt strongly the importance of adjusting this business, if possible, at the present moment, and as I felt also that, although the Russian Plenipotentiaries had, in consequence of my former remarks, agreed to waive altogether all question of national dignity in discussing it, His Imperial Majesty might yet possibly feel an invincible repugnance to retract from the pretensions advanced by the Emperor Paul in the Charter given to the Russian American Company in 1799 (however unacknowleged by other Powers such pretension might have been), I thought that I should not act in opposition to the spirit at least of my instructions if, in deference to such a sentiment on the part of the Emperor, and with a view to finish the business quickly, I ventured to make yet one other proposition which, while it saved this point of dignity to Russia by giving to her the 55th degree of latitude as her boundary upon the islands, might preserve also uninterrupted our access to the Pacific Ocean, and secure to His Majesty the 56th degree of north latitude as the British boundary upon the coast.

The proposition by which I had hoped to effect these objects will also be found in the paper (Inclosure 4), in delivering which I gave it clearly to be understood that it contained my ultimate proposition.

It was not till the day before yesterday, that is, nearly ten days after I had given in this paper, that I was invited to another Conference, when I was informed that the Imperial Government had, after anxious consideration, taken their final decision, and that they must continue to insist upon the demarcation as described by them in the first paper (Inclosure 1).

Finding this to be the case, I repeated that I had already gone far beyond the utmost limit of my instructions, and that I was sorry to say that I must now consider our negotiations as necessarily suspended, so far at least as the question of territorial demarcation was concerned.

Count Nesselrode then inquired whether I should object to transmit to my Court the final decision of himself and M. Poletica as it is declared in the inclosed paper (Inclosure 5), and whether I did not think that His Majesty's Government, seeing how slight our disagreement was, might not be disposed to furnish me with such further instructions as would enable me to meet the views of the Russian Government, informing me, at the same time, that it was intended to acquaint Count Lieven by the courier, who is to be dispatched to-night to London, with the course which the negotiation had taken, and to instruct him to hold some conversation with you upon the subject.

I told Count Nesselrode that I should of course feel it to be my duty to transmit this and all other papers connected with the negotiation to you without loss of time, but that I could not by any means take upon

myself to say what might be the opinion of His Majesty's Government as to the pretensions so tenaciously adhered to by the Imperial Government, further than by saying that certainly they were such as had never been contemplated by my Court in the instructions with which I had been as yet furnished, and that if a territorial arrangement perfectly satisfactory to both parties could not now be made, it might possibly be thought by my Government that our respective pretensions might still remain without any serious inconvenience in the state in which they had before stood, and that it would only be necessary for the present to confine their attention to the adjustment of the more urgent point of the maritime pretensions—a point which would not admit of equal postponement.

In reply to this observation Count Nesselrode stated, to my extreme surprise, that if the territorial arrangement was not completed, he did not see the necessity of making any agreement respecting the maritime question; and I found myself most unexpectedly under the necessity of again explaining very distinctly, both to him and to M. Poletica, that the maritime pretension of Russia was one which, violating as it did the first and most established principles of all public maritime law, admitted neither of explanation nor modification, and that my Government considered themselves possessed of a clear engagement on the part of Russia to retract in some way or other a pretension which could neither be justified nor enforced.

Here the matter rested; but I ought to state that, notwithstanding this unexpected observation of Count Nesselrode, I do not at all believe that, had we been able to agree upon our southern line
55 of demarcation, we should have found any real difficulty either as regards the retraction of the maritime pretension, or as regards our western boundary, or any of the other minor details which we should have been called upon to adjust; but the observation was made, and considering what has already passed upon this subject both here in London and in America, considering also the delicacy with which His Majesty had left it to the Russian Government themselves to frame the terms in which their retractation of this preposterous pretension should be made, His Majesty's Government may perhaps think it advisable that Count Lieven should be again given clearly to understand that it is a point to which no slight importance is attached by His Majesty, and that the pretension as it now stands will admit of no remedy but that of publick, formal, and precise retractation in some shape or another.

Such has been the course of my late negotiation upon this question, and such the grounds upon which I have thought it my duty to suspend it for the present.

I know full well the inconvenience of breaking off such a negotiation in such a stage and upon a point which, judging only by the Map, might perhaps appear of so little real importance to His Majesty's present interests, but when I consider by how much I have already exceeded my instructions, how more than doubtful is the real right of this Government to any part of the territory in most immediate dispute, and how much more exorbitant are their pretensions upon the north-west continent of America than I had before had reason to suspect, I certainly could not venture to take upon myself the heavy responsibility of making any further concessions of a territory the value and possible local advantages of which I had no means of estimating and which I believe are as yet so imperfectly known.

It is somewhat remarkable that whilst the Russian pretension of maritime jurisdiction stands unrecalled amongst the Ukases of the Imperial Government, a note such as that of which I herewith inclose a copy should have been addressed to me in the midst of our negotiations asking protection for a Russian ship to navigate in safety those very seas and visit those very shores which the Court of Russia has by such high-handed Decrees declared to be a part of her exclusive dominions, and a part, too, which the other Powers of the world are forbidden to approach.

I have not yet answered this note, but if I am pressed to do so before I can receive the instructions of His Majesty's Government in respect to it, I shall certainly grant the certificate required as was done in a former and similar instance by Lord Cathcart.

I have, &c.

(Signed) CHARLES BAGOT.

[Inclosure 1 in No. 39.]

Counter-Draft by Russian Plenipotentiaries.

Les propositions faites par les Plénipotentiaires de Russie à Sir Charles Bagot, et que son Excellence a été priée de prendre en mûre considération, tendoient à faire admettre le 55e degré de latitude septentrionale comme ligne de démarcation entre les possessions respectives sur la côte nord-ouest de l'Amérique.

Cette même limite a déjà été assignée aux possessions Russes par la Charte que feu l'Empereur Paul Ier accorda à la Compagnie Américaine.

Comme le parallèle du 55e degré coupe l'Ile du Prince de Galles dans son extrémité méridionale, laissant en dehors deux pointes de terre, les Plénipotentiaires de Russie ont proposé que ces deux pointes fussent comprises dans les limites Russes, voulant éviter par là une division de territoire également incommode aux deux parties intéressées.

Pour compléter la ligne de démarcation et la rendre aussi distincte que possible, les Plénipotentiaires de Russie ont exprimé le désir de lui faire suivre le Portland Canal jusqu'aux montagnes qui bordent la côte.

De ce point, la limite remonteroit le long de ces montagnes parallèlement aux sinuosités de la côte, jusqu'à la longitude du 139e degré (méridien de Londres), degré dont la ligne de prolongation vers le nord formeroit la limite ultérieure entre les possessions Russes et Angloises au nord, comme à l'est.

Le motif principal qui force la Russie à insister sur la souveraineté de la lisière indiquée plus haut sur la terre ferme depuis le Portland Canal jusqu'au point d'intersection du 60e avec le 139e de longitude, c'est que, privée de ce territoire, la
56 Compagnie Russe-Américaine n'auroit aucun moyen de soutenir les Établissemens qui seroient dès lors sans point d'appui, et qui ne pourroient avoir aucune solidité.

En revanche la Russie se feroit un devoir d'ouvrir aux sujets de Sa Majesté Britannique la libre navigation de tous les fleuves qui aboutissent à l'Océan dans cette même lisière.

Pour donner une dernière preuve de son empressement à aller au devant des vœux du Gouvernement Anglois, elle ouvriroit aussi au commerce des sujets de Sa Majesté Britannique et à leurs vaisseaux, le port de Novo-Archangelsk, dans le cas où les propositions ci-dessus seroient acceptées.

[Inclosure 2 in No. 39.]

Amended Proposal by Sir C. Bagot.

Comme il a été convenu de prendre pour base de négociation les convenances mutuelles des deux pays, il est à remarquer, en réponse à la proposition faite par les Plénipotentiaires Russes, qu'une ligne de démarcation tracée de l'extrémité méridionale de l'Ile du Prince de Galles jusqu'à l'embouchure du Canal de Portland, de là par le milieu de ce canal jusqu'à ce qu'elle touche la terre ferme, de là jusqu'aux montagnes qui bordent la côte, et de là le long de ces montagnes jusqu'à la longi-

tude du 139e degré, &c., ôteroit à Sa Majesté Britannique la souveraineté de toutes ces anses et de ces petites baies qui se trouvent entre les latitudes 56° et 54° 45′ dont plusieurs (à ce qu'il y a tout lieu à croire) communiquent directement aux Établissemens de la Compagnie de Hudson's Bay, et seroient par conséquent d'une importance essentielle pour son commerce, tandis que de l'autre côté la Compagnie Russe-Américaine ne possède aucun Établissement sur la terre ferme entre les deux parallèles susmentionnées, ni même sur l'Ile du Prince de Galles, ni sur les îles qui sont situées entre celle-ci et la terre ferme.

En acceptant la proposition faite par Sir Charles Bagot dans sa première conférence avec les Plénipotentiaires Russes, il n'y auroit (à ce qu'il paroît) qu'un seul inconvénient pour la Russie, celui qui pourroit résulter du droit que réclameroient peut-être les États-Unis, en vertu de leur Convention avec la Grande-Bretagne de l'année 1818, de naviguer librement dans tous les parages entre l'Ile du Roi George et la terre ferme, et de gêner ainsi de quelque sorte le commerce des sujets de Sa Majesté Impériale dans ces eaux.

Pour obvier à cet inconvénient et pour assurer à la Russie l'entière souveraineté de ces parages, ainsi que toutes les îles et les côtes où il y a effectivement des Établissemens Russes, la Grande-Bretagne proposeroit de prendre pour ligne de démarcation entre les territoires des deux Puissances une ligne tracée de l'ouest vers l'est, par le milieu du canal qui sépare les Iles du Prince de Galles et du Duc d'York de toutes les îles situées au nord des dites îles jusqu'à ce qu'elle touche la terre ferme.

De là se prolongeant dans la même direction sur la terre ferme jusqu'à un point distant de la côte de 10 lieues marines, la ligne remonteroit de ce point vers le nord et le nord-ouest, parallèlement aux sinuosités de la côte, et toujours à la distance de 10 lieues marines du rivage, jusqu'au 140e degré de longitude (de Greenwich) dont elle suivroit alors du prolongement jusqu'à la Mer Polaire.

[Inclosure 3 in No. 39.]

Observations of Russian Plenipotentiaries on Sir C. Bagot's amended Proposal.

Le motif qui a fait proposer l'adoption du principe des convenances mutuelles, et le premier avantage de ce principe, c'est d'empêcher que les Établissemens respectifs sur la côte nord-ouest ne puissent se nuire les uns aux autres et entrer en collision.

Les Établissemens Anglois de la Compagnie de la Baie de Hudson et du Nord-Ouest tendent à se porter vers l'ouest par les 53e et 54e degré de latitude septentrionale.

Les Établissemens Russes de la Compagnie Américaine tendent à descendre au sud vers le 55e parallèle, et au delà, car il est à remarquer que si la Compagnie Américaine n'a point encore formé d'Établissemens fixes sur la ligne mathématique du 55e degré, il n'en est pas moins vrai qu'en vertu de son privilège de 1799, privilège contre
57 lequel aucune Puissance n'a jamais réclamé, elle exploite la chasse et la pêche dans ces parages, et que régulièrement elle occupe les îles et les côtes avoisinantes dans la saison qui lui permet d'y envoyer ses chasseurs et ses pêcheurs.

Il étoit donc de la convenance mutuelle des deux Empires d'assigner de justes limites à des progrès réciproques qui ne pouvaient qu'occasionner avec le temps les plus fâcheuses complications.

Il étoit aussi de leur convenance mutuelle de déterminer ces limites d'après les séparations naturelles qui forment toujours les frontières les plus distinctes et les plus certaines.

C'est par ces raisons que les Plénipotentiaires de Russie ont proposé pour limites sur la côte du continent au sud, le Portland Channel, dont l'origine dans les terres est par le 56e degré de latitude nord, et, à l'est, la chaîne de montagnes, qui suit à une très petite distance les sinuosités de la côte.

D'après les Cartes les plus récentes et les meilleures publiées en Angleterre, les Établissemens de la Compagnie de la Baie de Hudson ne se rapprochent des côtes que par le 53e et le 54e degré, et l'on ne sauroit prouver que sur aucun point ils arrivent jusqu'au grand Océan.

Cependant, d'après le principe des convenances mutuelles, le projet d'arrangement des Plénipotentiaires de Russie, laisse ouverts à l'extension successive des Colonies Anglaises:

1. Toute la partie de la côte située entre l'embouchure du Portland Channel et le 51e degré de latitude nord, envisagée comme limite des possessions Russes dans l'Oukase du 4 (16) Septembre, 1821.

2. Tout le territoire situé entre les Établissemens Anglois au 54e parallèle et l'origine du Portland Channel, qui est au 56e parallèle.

3. Tout le territoire situé derrière la chaîne de montagnes dont il a été question ci-dessus, jusqu'au point d'intersection du 139e degré de longitude, méridien de Greenwich.

Les Plénipotentiaires de Sa Majesté Impériale, prévoyant même le cas où, sur la lisière de la côte qui appartiendroit à la Russie, il se trouveroit des fleuves au moyen lesquels les Établissemens Anglois pourroient communiquer avec l'Océan, se sont empressés d'offrir, par une stipulation éventuelle, la libre navigation de ces fleuves.

Ils ont, en outre, annoncé à son Excellence Sir Charles Bagot que le port de Novo-Archangelsk sera ouvert au commerce des sujets de Sa Majesté le Roi de la Grande-Bretagne.

D'autre part, les Plénipotentiaires de Russie ont l'honneur de lui observer itérativement, que sans une lisière sur la côte du continent à partir du Portland Channel, les Établissemens Russes des îles du voisinage n'auroient aucun point d'appui; qu'ils seroient à la merci de ceux que des étrangers formeroient sur la terre ferme, et que tout arrangement semblable, loin d'être fondé sur le principe des convenances mutuelles, ne présenteroit que des dangers à l'une des Parties et des avantages exclusifs à l'autre.

On ne parlera point ici des deux pointes de l'Ile du Prince de Galles, qui sont situées au-dessous de la ligne du 55e degré de latitude nord. Ces deux pointes ne pourroient être d'aucune utilité à la Grande-Bretagne, et si les neuf-dixièmes de l'Ile du Prince de Galles appartiennent à la Russie, il est évidemment d'un intérêt réciproque que l'île lui appartienne tout entière.

Ce court exposé suffit pour justifier le projet que les Plénipotentiaires de Sa Majesté Impériale ont remis à Sir Charles Bagot, et sur la teneur duquel ils ne peuvent qu'insister.

Ils espèrent, au reste, que les intentions qui ont dicté ce projet seront appréciées tant par l'Ambassadeur de Sa Majesté Britannique que par son Gouvernement.

[Inclosure 4 in No. 39.]

Reply by Sir C. Bagot to Observations of Russian Plenipotentiaries.

La découverte ou la simple occupation de quelques îles situées sur la côte d'un continent ne peut donner aucun droit à la souveraineté de la terre ferme voisine, principe qui n'est pas moins fondé sur l'opinion reconnue des juristes les plus célèbres, que sur l'usage universellement observé entre les nations.

D'après ce principe, Sir Charles Bagot a constamment soutenu dans les Conférences qu'il a eu l'honneur d'avoir avec les Plénipotentiaires de Russie, que Sa Majesté
58 Britannique ne sauroit admettre que les droits de la Russie sur la côte nord-ouest du Continent d'Amérique puissent s'étendre vers le midi sur ce continent au delà du point où la Russie aura actuellement formé des Établissemens.

Il n'a jamais été affirmé par les Plénipotentiaires de Sa Majesté Impériale que la Russie possède des Établissemens quelconques sur la terre ferme au sud du 60e ou 59e degré de latitude nord, mais ils ont déclaré que, privée d'une lisière sur la terre ferme, la Compagnie Russe-Américaine n'auroit aucun moyen de soutenir ses Établissemens sur les îles, qui seroient dès lors sans point d'appui et ne pourroient avoir aucune solidité.

Tout argument fondé sur la considération de la convenance pratique de la Russie ne pouvoit être que du plus grand poids, et le Plénipotentiaire de Sa Majesté Britannique n'hésita pas d'abandonner, en conséquence de cette observation des Plénipotentiaires de Russie, la ligne de démarcation qu'il avoit d'abord proposée, savoir, celle qui devoit passer par le milieu de Chatham Straits jusqu'à l'extrémité septentrionale de Lynn Canal et de là à Mont Elias, ou à l'intersection du 140e degré de longitude, et d'en proposer une autre qui assureroit à la Russie non seulement une lisière sur le continent, vis-à-vis de l'Établissement le plus méridional qu'elle possède sur les îles, mais qui lui assureroit aussi la possession de toutes les îles et les eaux qui l'avoisinent, ou qui se trouvent placées entre cet Établissement et la terre ferme, la possession enfin de tout ce qui pourroit devenir, par la suite, de quelque utilité, ou pour sa solidité ou pour sa prospérité.

Mais le Plénipotentiaire de Sa Majesté Britannique ne peut pas admettre que la Russe accorderoit ou assureroit à Sa Majesté Britannique un nouvel avantage par sa renonciation à la partie de la côte située entre l'embouchure du Portland Canal et le degré de latitude envisagé comme limite des possessions Russes dans l'Oukase de 1821, ni même par sa renonciation à toute partie du continent au midi des Établissemens qui y ont été déjà formées; car, quand même Sa Majesté Britannique eût jamais reconnu ce degré de latitude comme formant la ligne de démarcation en autant qu'il regarde les îles, elle ne pourroit, d'après le principe énoncé plus haut, l'avoir reconnu comme limite sur le continent voisin, sur lequel la Compagnie de la Baie de Hudson avoit déjà établi plusieurs de ses postes les plus importants.

Cette Compagnie a en effet des Établissemens même près de la côte, au nord du 55e degré; Sa Majesté Britannique ne pourroit donc sans sacrifier les intérêts de la Compagnie renoncer à ses droits à la souveraineté de la côte, et des îles qui en dépendent immédiatement, jusqu'à la hauteur de 56° 30′ de latitude nord, quel que soit le degré de latitude que l'on pourra définitivement convenir de prendre pour limite entre les deux Puissances, en autant qu'il concerne les îles situées plus à l'ouest.

L'origine du Portland Canal peut être, comme il y a lieu de croire, l'embouchure de quelque fleuve qui coule par le milieu du pays occupé par la Compagnie de la Baie de Hudson, et il est par conséquent d'une importance majeure à la Grande-Bretagne d'en posséder la souveraineté des deux rives.

Ce fut dans l'espoir de pouvoir concilier ces objets indispensables avec ceux du Gouvernement Impérial, et déterminer sans plus de délai une question, qu'il paraissoit être également de l'intérêt des deux parties d'arranger définitivement au moment actuel, que le Plénipotentiaire de Sa Majesté Britannique eût l'honneur de proposer dans sa dernière Conférence avec les Plénipotentiaires de Russie, une ligne de démarcation, qui tout en conservant à la Russie pour limite méridionale sur les îles le degré de latitude désigné par l'Oukase de 1799, assigneroit en même tems à la Grande-Bretagne pour limite sur la côte de la terre ferme la latitude de 56° 30′ nord.

Il semble qu'une ligne tracée de l'extrémité méridionale du détroit nommé "Duke of Clarence's Sound" par le milieu de ce détroit, jusqu'au milieu du détroit qui sépare les Iles du Prince de Galles et du Duc d'York de toutes les îles situées au nord des dites îles, de là, vers l'est par le milieu du même détroit jusqu'à la terre ferme, et se prolongeant ensuite dans la direction, et de la manière déjà proposées par le Plénipotentiaire de Sa Majesté Britannique jusqu'à Mont Elias, ou à l'intersection du 140e degré de longitude, formeroit une ligne de démarcation qui concilieroit les convenances mutuelles des deux Parties, et qui assureroit peut-être d'une manière satisfaisante les intérêts réciproques tant actuels que futurs des deux Empires dans cette partie du globe.

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59 [Inclosure 5 in No. 39.]

Final Decision of Russian Plenipotentiaries.

Les Plénipotentiaires de Russie ont porté à la connoissance de l'Empereur, leur Maître, les dernières propositions qui leur ont été faites par Sir Charles Bagot, relativement à la ligne de démarcation qui sépareroit les possessions Russes des possessions Angloises sur la côte nord-ouest du Continent de l'Amérique.

Attentivement examinées par Sa Majesté Impériale, ces propositions ne lui ont point paru de nature à pouvoir être acceptées.

L'Empereur charge ses Plénipotentiaires de déclarer itérativement à M. l'Ambassadeur d'Angleterre:

Que la possessson de l'Ile du Prince de Galles, sans une portion de territoire sur la côte située vis-à-vis de cette île, ne pourroit être d'aucune utilité à la Russie.

Que tout Établissement formé sur la dite île, ou sur celles qui l'environnent, se trouverait en quelque sorte tourné par les Établissemens Anglois de la terre ferme, et complettement à la merci de ces derniers.

Qu'en conséquence un arrangement semblable ne serait nullement conforme au principe des convenances mutuelles.

Qu'au reste, d'après le témoignage des Cartes les plus récentes publiées en Angleterre, il n'existe aucun Établissement Anglais ni sur la côte même du continent ni au nord du 54° de latitude septentrionale.

Qu'ainsi, quand les limites fixées aux possessions Russes par la Charte de 1799, n'auraient point en leur faveur depuis vingt-cinq ans le consentement tacite de toutes les Puissances, encore la Russie exerceroit-elle sur cette partie de la côte précisément les mêmes droits que la Grande-Bretagne, d'où il résulte que la question devrait toujours être résolue, non d'après les intérêts exclusifs d'un des deux Empires, mais de manière à concilier leurs intérêts réciproques.

Qu'enfin, quant à la navigation des fleuves, la Russie croyait avoir offert à la Grande-Bretagne tous les avantages et toutes concessions que celle-ci peut désirer.

Et que dans cet état de choses les Plénipotentiaires de Sa Majesté Impériale avoient ordre d'insister sur leurs propositions antérieures, propositions dont ils ont amplement développé les motifs à son Excellence M. le Chevalier Bagot.

L'Empereur espère que ces motifs seront appréciés par le Gouvernement de Sa Majesté Britannique, et que M. l'Ambassadeur d'Angleterre les fera valoir avec ce désir de rapprocher les opinions respectives qu'il a manifesté dans tout le cours de cette négociation.

Sa Majesté Impériale est au regret de ne pas la voir terminée dès à présent; mais elle se flatte que les résolutions définitives du Cabinet de Londres empêcheront sans doute ces pourparlers de demeurer stériles.

ST. PÉTERSBOURG, le 17 (29) Mars, 1824.

[Inclosure 6 in No. 39.]

Memorandum.

La Compagnie Russe-Américaine a été munie à différentes époques de la part des Missions étrangères accréditées près la Cour Impériale de Russie de certificats destinés à assurer appui et protection aux navires que la dite Société dirige vers les contrées soumises à la domination des Puissances amies.

Sachant apprécier tous les avantages d'une assistance aussi efficace, la Compagnie vient de s'adresser au Ministère Impérial dans le but d'obtenir par son intervention une lettre de protection d'usage pour le vaisseau "Hélène," commandé par le Lieutenant de la Marine Tchistiakoff.

Ce bâtiment, dont la destination est de porter des provisions aux Colonies de la Compagnie, s'occupera en même tems de recherches scientifiques dans les parages vers lesquels il dirige sa course.

En conséquence, le Soussigné a l'honneur de prier son Excellence M. le Chevalier de Bagot, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Britannique, de vouloir bien lui transmettre, à l'usage du Lieutenant Tchistiakoff, un certificat lequel, en spécifiant le but de l'expédition, réclamerait en faveur du commandant et de l'équipage un accueil hospitalier, et s'ils se trouvaient dans le cas d'y avoir recours, une assistance efficace de la part des autorités Britanniques.

Le Soussigné se plairait à reconnaître dans un accueil favorable à la demande qu'il vient d'exprimer au nom de la Compagnie Russe-Américaine une nouvelle preuve des relations amicales qui existent entre les deux Cours, et il saisit, &c.

[Signé] NESSELRODE.

ST. PÉTERSBOURG, *le 12 Mars, 1824.*

No. 40.

Mr. G. Canning to Sir C. Bagot.

No. 18.] FOREIGN OFFICE, *April 24, 1824.*

SIR: Your despatches to No. 23 inclusive received here on the 14th instant by the messenger Draffen (after an unusually expeditious journey), have been laid before the King.

The courier whom your Excellency mentioned as being dispatched to Count Lieven at the same time with Draffen has not yet arrived—at least so I learn from Count Lieven, who denies having yet received the instructions which he is promised.

I take advantage of the departure of Sir Alexander Malet, whom His Majesty has been pleased to allow to be attached to your Excellency's Embassy (Mr. Bloomfield, whose assistance I had so long ago promised, not being yet able to leave England), to acknowledge the receipt of your late despatches, but I must refer your Excellency for any detailed observations upon them to what I shall write to you by a messenger, whom I intend to dispatch so soon as I shall have conferred with Count Lieven on the contents of his promised instructions.

I will not, however, defer till that opportunity the informing your Excellency that your conduct in suspending the negotiation with respect to the north-west coast of America, when you found that the modifications, which you judiciously took upon yourself to make in your instructions, were not met by corresponding concessions on the part of the Russian Government, has received His Majesty's gracious approbation.

I have referred the whole question of this negotiation anew to the Governors of the Hudson's Bay Company, whose Report I expect shortly to receive.

I have some reason to think that that Report will recommend the policy of closing with the Russian proposals rather than leaving the points in dispute unsettled for an indefinite time. It will then remain

to consider, after I shall have learnt the tenour of the instructions sent to Count Lieven, whether it may be most expedient for the King's service to carry on the ulterior discussions with the Russian Ambassador here, or to authorize your Excellency to resume and conclude the negotiation.

I am, &c. (Signed) GEORGE CANNING.

No. 41.

Mr. G. Canning to Count Lieven.

[Extract.]

FOREIGN OFFICE, *May 29, 1824.*

After mature consideration of the two despatches from Count Nesselrode to your Excellency on the 5th ultimo, copies of which your Excellency had the goodness to put into my hands, I have the satisfaction to acquaint your Excellency that I shall be enabled shortly to send to His Majesty's Ambassador at St. Petersburgh such instructions on the subject matter of both as shall meet, in a great degree, the wishes of your Court.

1. As to the line of demarcation to be drawn between Russian and British occupation on the north-west coast of America; Sir Charles Bagot's discretion will be so far enlarged as to enable him to admit, with certain qualifications, the term last proposed by the Russian Government.

The qualifications will consist chiefly in a more definite description of the limit to which the strip of land required by Russia on the continent is to be restricted; in the selection of a somewhat more western degree of longitude as the boundary to the northward of Mount Elias; in precise and positive stipulations for the free use of all rivers which may be found to empty themselves into the sea within the Russian
61 frontier, and of all seas, straits, and waters which the limits assigned to Russia may comprehend.

It can hardly be expected that we should not also put in our claim for the like privileges of trade as are, or may be, stipulated with Russia by any other nation; and we take for granted that the exclusive claims of navigation and jurisdiction over the North Pacific Ocean, which were put forward in the Ukase of September 1821 are to be altogether withdrawn.

No. 42.

Mr. G. Canning to Sir C. Bagot.

No. 22.] FOREIGN OFFICE, *May 29, 1824.*

SIR: I transmit to your Excellency a copy of a letter which I have addressed to Count Lieven upon the subject-matter of two despatches from Count Nesselrode to Count Lieven, which that Ambassador communicated to me, and copies of which I also inclose.

Your Excellency will learn from my letter to Count Lieven that you may expect definitive instructions very shortly, both for the conclusion of the negotiation relating to the north-west coast of America, and to the proposed Conference on the pacification of Greece.

I hope to dispatch a messenger to your Excellency with these instructions in the course of the next week.

Meantime the inclosed paper will put your Excellency generally in possession of the sentiments of His Majesty's Government upon these several subjects. But your Excellency will not take any step upon them until you shall have received my promised instructions.

I am, &c.

(Signed) GEORGE CANNING.

No. 43.

Mr. G. Canning to Sir C. Bagot.

No. 26.] FOREIGN OFFICE, *July 12, 1824.*

SIR: After full consideration of the motives which are alleged by the Russian Government for adhering to their last propositions respecting the line of demarcation to be drawn between British and Russian occupancy on the north-west coast of America; and of the comparative inconvenience of admitting some relaxation in the terms of your Excellency's last instructions, or of having the question between the two Governments unsettled for an indefinite time, His Majesty's Government have resolved to authorize your Excellency to consent to include the south points of Prince of Wales' Island within the Russian frontiers, and to take as the line of demarcation, a line drawn from the southernmost point of Prince of Wales' Island from south to north through Portland Channel, till it strikes the mainland in latitude 56; thence following the sinuosities of the coast, along the base of the mountains nearest the sea to Mount Elias, and thence along the 139th degree of longitude to the Polar Sea.

I inclose the draft of a projet of Convention founded upon these principles, which your Excellency is authorized to sign previously to your quitting St. Petersburgh.

The advantages conceded to Russia by the line of demarcation, traced out in this Convention, are so obvious, as to render it quite impossible that any objection can reasonably be offered on the part of the Russian Government to any of the stipulations in our favour.

There are two points which are left to be settled by your Excellency:

1. In fixing the course of the eastern boundary of the strip of land to be occupied by Russia on the coast, the seaward base of the mountains is assumed as that limit; but we have experience that other mountains on the other side of the American Continent, which have been assumed in former Treaties as lines of boundary, are incorrectly laid down in the Maps; and this inaccuracy has given rise to very troublesome discussions. It is therefore necessary that some
62 other security should be taken that the line of demarcation to be drawn parallel with the coast, as far as Mount St. Elias, is not carried too far inland.

This is done by a proviso that that line should in no case (*i. e.*, not in that of the mountains, which appear by the Map almost to border the coast, turning out to be far removed from it) be carried further to the east than a specified number of leagues from the sea. The utmost extent which His Majesty's Government would be disposed to concede would be a distance of 10 leagues; but it would be desirable if your Excellency were enabled to obtain a still more narrow limitation.

2. Article 5 of the "Projet" is copied from Article IV of the Convention between Russia and the United States of America. By the American Article the right of visiting respectively and resorting to each other's possessions is limited to ten years. This limitation is left in blank in the "Projet."

We should have no objection to agree to the Article without any limitation of time. We should prefer a longer period (say twenty years) to that stipulated by the Americans. Your Excellency will obtain either of these extensions if you can, but you must not agree to a shorter term than ten years.

Your Excellency will be careful to make it understood that this limitation of time cannot in any case extend to the use by Great Britain of the harbour of New Archangel, still less of the rivers, creeks, &c., on the continent, the use of all which is in the nature of a compensation for the perpetual right of territory granted to Russia, and, therefore, must be alike perpetual. If your Excellency shall, as I cannot doubt, conclude and sign this Convention before your departure, you will make it a point to bring with you the ratification of the Russian Government to be exchanged by Count Lieven against that of His Majesty.

I have, &c.

(Signed) GEORGE CANNING.

[Inclosure in No. 43.]

Draft Convention.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of All the Russias, being desirous of drawing still closer the ties of friendship and good understanding which unite them, by means of an Agreement which shall settle, upon the basis of reciprocal convenience, the different points connected with the commerce, navigation, and fisheries of their subjects on the Pacific Ocean, as well as the limits of their possessions and establishments on the north-west coast of America; their said Majesties have named their Plenipotentiaries to conclude a Convention for this purpose, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., &c., &c.;

And His Majesty the Emperor of All the Russias, &c., &c., &c.;

Who, after having communicated to each other their respective full
63 powers, found to be in due and proper form, have agreed upon and concluded the following Articles:

ARTICLE I.

It is agreed between the High Contracting Parties that their respective subjects shall enjoy the right of free navigation along the whole extent of the Pacific Ocean, comprehending the sea within Behring's Straits, and shall neither be troubled nor molested in carrying on their trade and fisheries, in all parts of the said ocean, either to the northward or southward thereof.

Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et de l'Irlande, et Sa Majesté l'Empereur de Toutes les Russies, désirant resserrer les liens d'amitié et de bonne intelligence qui les unissent, moyennant un accord qui régleroit, sur le principe d'une convenance réciproque, différens points relatifs au commerce, à la navigation, et aux pêcheries de leurs sujets sur l'Océan Pacifique, ainsi que les limites de leurs possessions et établissemens sur la côte nord-ouest de l'Amérique; leurs dites Majestés ont nommé des Plénipotentiaires pour conclure une Convention à cet effet, savoir:

Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et de l'Irlande, &c., &c., &c.;

Et Sa Majesté l'Empereur de Toutes les Russies, &c., &c., &c.;

Lesquels, après s'être réciproquement communiqués leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des Articles suivans:

ARTICLE I.

Il est convenu entre les Hautes Parties Contractantes que leurs sujets respectifs navigueront librement dans toute l'étendue de l'Océan Pacifique, y comprise la Mer au dedans du Détroit dit de Behring, et ne seront point troublés ni molestés en exerçant leur commerce et leurs pêcheries, dans toutes les parties du dit océan, tant au nord qu'au sud.

It being well understood that the said right of fishery shall not be exercised by the subjects of either of the two Powers, nearer than two marine leagues from the respective possessions of the other.

Bien entendu, que la dite liberté de pêcherie ne sera exercée par les sujets de l'une des deux Puissances qu'à la distance de 2 lieues maritimes des possessions respectives de l'autre.

ARTICLE II.

The line which separates the possessions of the two High Contracting Parties upon the continent and the Islands of America to the north-west, shall be drawn in the manner following:

Commencing from the two points of the island called "Prince of Wales' Island," which form the southern extremity thereof, which points lie in the parallel of 54° 40′, and between the 131st and 133rd degree of west longitude (meridian of Greenwich), the line of frontier between the British and Russian possessions shall ascend northerly along the channel called Portland Channel, till it strikes the coast of the Continent lying in the 56th degree of north latitude. From this point it shall be carried along that coast, in a direction parallel to its windings, and at or within the seaward base of the mountains by which it is bounded, as far as the 139th degree of longitude west of the said meridian. Thence the said meridian line of 139th degree of west longitude, in its extension as far as the Frozen Ocean, shall form the boundary of the British and Russian possessions on the said Continent of America to the north-west.

ARTICLE II.

La ligne séparative entre les possessions des deux Hautes Parties Contractantes sur le continent et les Isles de l'Amérique du nord-ouest, sera tracée de la manière suivante:

En commençant des deux points de l'isle dite du Prince de Galles, qui en forment l'extrémité méridionale, lesquels points sont situés sous le parallèle de 54° 40′, et entre le 131e et le 133e degré de longitude ouest (méridien de Greenwich), la ligne de la frontière, entre les possessions Britanniques et Russes, remontera, au nord, par la passe dite le Portland Channel, jusqu'à ce qu'elle touche à la côte de la terre ferme située au 56e degré de latitude nord. De ce point elle suivra cette côte, parallèlement à ses sinuosités, et sous ou dans la base vers la mer des montagnes qui la bordent, jusqu'au 139e degré de longitude ouest du dit méridien. Et de là, la susdite ligne méridionale du 139e degré de longitude ouest, en sa prolongation jusqu'à la Mer Glaciale, formera la limite des possessions Britanniques et Russes, sur le dit Continent de l'Amérique du nord-ouest.

ARTICLE III.

It is, nevertheless, understood, with regard to the stipulations of the preceding Article:

1. That the said line of coast on the Continent of America, which forms the boundary of the Russian possessions, shall not, in any case, extend more than ——— marine leagues in breadth from the sea towards the interior, at whatever distance the aforesaid mountains may be.

64 2. That British subjects shall forever freely navigate and trade along the said line of coast, and along the neighbouring islands.

3. That the navigation and commerce of those rivers of the continent which cross this line of coast shall be open to British subjects, as well to those inhabiting or visiting the interior of this continent, as to those coming from the Pacific Ocean, who shall touch at these latitudes.

ARTICLE III.

Il est convenu néanmoins, par rapport aux stipulations de l'Article précédent:

1. Que la susdite lisière de côte sur le Continent de l'Amérique, formant la limite des possessions Russes, ne doit, en aucun cas, s'étendre en largeur depuis la mer vers l'intérieur, au delà de la distance de ——— lieues maritimes, à quelque distance que seront les susdites montagnes.

2. Que les sujets Britanniques navigueront et commenceront librement à perpétuité sur la dite lisière de côte, et sur celle des isles qui l'avoisinent.

3. Que la navigation et le commerce des fleuves du continent traversant cette lisière, seront libres aux sujets Britanniques, tant à ceux habitant ou fréquentant l'intérieur de ce continent, qu'à ceux qui aborderont ces parages du côté de l'Océan Pacifique.

ARTICLE IV.

The port of Sitka or Nove Archangelsk shall be, and shall for ever remain, open to the commerce of the subjects of His Britannic Majesty.

ARTICLE IV.

Le port de Sitka ou Nove Archangelsk sera et restera à jamais ouvert au commerce des sujets de Sa Majesté Britannique.

ARTICLE V.

With regard to the other parts of the northwest coast of America, and of the islands adjacent thereto, belonging to either of the two High Contracting Parties, it is agreed that, for the space of —— years from the —— April, 1824, their respective vessels, and those of their subjects, shall reciprocally enjoy the liberty of visiting, without hindrance, the gulfs, havens, and creeks of the said coast, in places not already occupied, for the purposes of fishery and of commerce with the natives of the country.

It being understood:

1. That the subjects of either of the High Contracting Parties shall not land at any spot where there may be an establishment of the other, without the permission of the Governor or other authority of the place, unless they should be driven thither by stress of weather or other accidents.

2. That the said liberty of commerce shall not include the trade in spirituous liquors, in fire-arms, swords, bayonets, &c., gunpowder, or other warlike stores. The High Contracting Parties reciprocally engaging not to permit the above-mentioned articles to be sold or transferred, in any matter whatever, to the natives of the country.

ARTICLE VI.

No establishment shall, in future, be formed by British subjects, either upon the coast or upon the borders of the continent comprised within the limits of the Russian possessions designated in Article II; and, in like manner, no such establishments shall be formed by Russian subjects beyond the said limits.

65 ARTICLE VII.

Such British and Russian vessels navigating these seas, as may be compelled by stress of weather, or by any other accident, to take shelter in the respective ports, shall be at liberty to refit therein, to provide themselves with all necessary stores, and to put to sea again, without the payment of any duties except port and lighthouse dues not exceeding those paid by national vessels. In case, however, the master of such ship should be obliged to dispose of some of his merchandize in order to defray his expenses, he shall conform himself to the Regulations and Tariffs of the place where he may have landed.

ARTICLE VIII.

In every case of complaint on account of an infraction of the Articles of the *present Convention*, the officers employed

ARTICLE V.

Par rapport aux autres parties des côtes du continent de l'Amérique du nord-ouest, et des isles qui l'avoisinent, appartenantes à l'une et à l'autre des deux Hautes Parties Contractantes, il est convenu que pendant l'espace de dix ans à compter du —— Avril, 1824, leurs vaisseaux respectifs, et ceux de leurs sujets, pourront réciproquement fréquenter, sans entrave, les golphes, havres, et criques des dites côtes, dans des endroits non déjà occupés, afin d'y faire la pêche et le commerce avec les naturels du pays.

Bien entendu:

1. Que partout où il se trouvera un établissement de l'une des Hautes Parties Contractantes, les sujets de l'autre ne pourront y aborder, sans la permission du Commandant ou autre préposé de cet endroit, à moins qu'ils n'y seront forcés par tempêtes ou quelque autre accident.

2. Que la dite liberté de commerce ne comprendra point celui des liqueurs spiritueuses, ni des armes à feu, des armes blanches, de la poudre à canon, ou d'autres espèces de munitions de guerre. Tous lesquels articles les deux Puissances s'engagent réciproquement de ne point laisser vendre ni transférer, en manière quelconque, aux indigènes de ces pays.

ARTICLE VI.

Dorénavant il ne pourra être formé par les sujets Britanniques aucun établissement, ni sur les côtes ni sur la lisière du continent comprises dans les limites des possessions Russes désignées par l'Article II; et de même, il n'en pourra pas être formé aucun par des sujets Russes hors des dites limites.

ARTICLE VII.

Les vaisseaux Britanniques et Russes navigant dans ces mers, qui seront forcés par des tempêtes, ou par quelque autre accident, à se réfugier dans les ports respectifs, pourront s'y radouber et s'y pourvoir de toutes choses nécessaires, et se remettre en mer librement, sans payer aucun droit hors ceux de port et des fanaux, qui n'excéderont pas ce que payent les navires indigènes. A moins que le patron d'un tel navire ne se trouveroit dans la nécessité de vendre quelque marchandise pour défrayer ses dépenses; auquel cas, il sera tenu de se conformer aux Ordonnances et Tarifs de l'endroit où il aura abordé.

ARTICLE VIII.

Dans tous les cas de plainte par rapport à l'infraction des Articles du présent accord, les officiers et employés de part

on either side, without previously engaging themselves in any violent or forcible measures, shall make an exact and circumstantial report of the matter to their respective Courts, who will arrange the same, according to justice, in a friendly manner.

ARTICLE IX.

The present Convention shall be ratified, and the ratifications shall be exchanged at ——— within the space of —— months, or sooner, if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at ——— the —— day of ———, in the year of Our Lord 1824.

et d'autre, sans se permettre au préalable aucune violence ni voye de fait, seront tenus de rendre un rapport exact de l'affaire et de ses circonstances, aux Cours respectives, lesquelles la termineront selon la justice et à l'amiable.

ARTICLE IX.

La présente Convention sera ratifiée, et les ratifications en seront échangées à ——— dans l'espace de —— mois, ou plutôt si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont apposé le cashet de leurs armes.

Fait à ——— le —— l'an de Grace 1824.

No. 44.

Mr. G. Canning to Sir C. Bagot.

No. 29.] FOREIGN OFFICE, *July 24, 1824.*

SIR: The "Projet" of a Convention which is inclosed in my No. 26 having been communicated by me to Count Lieven, with a request that his Excellency would note any points in it upon which he conceived any difficulty likely to arise, or any explanation to be necessary, I have received from his Excellency the Memorandum a copy of which is herewith inclosed.

Your Excellency will observe that there are but two points which have struck Count Lieven as susceptible of any question. The first, the assumption of the base of the mountains, instead of the summit as the line of boundary; the second, the extension of the right of the navigation of the Pacific to the sea beyond Behring's Straits.

As to the first, no great inconvenience can arise from your Excellency (if pressed for that alteration) consenting to substitute the summit of the mountains instead of the seaward base, provided always that
66 the stipulation as to the extreme distance from the coast to which the *lisière* is in any case to run, be adopted (which distance I have to repeat to your Excellency should be made as short as possible), and provided a stipulation be added that no forts shall be established or fortifications erected by either party on the summit or in the passes of the mountains.

As to the second point, it is perhaps, as Count Lieven remarks, new. But it is to be remarked, in return, that the circumstances under which this additional security is required will be new also.

By the territorial demarcation agreed to in this "Projet," Russia will become possessed, in acknowledged sovereignty of both sides, of Behring's Straits.

The Power which could think of making the Pacific a *mare clausum* may not unnaturally be supposed capable of a disposition to apply the same character to a strait comprehended between two shores of which it becomes the undisputed owner; but the shutting up of Behring's Straits, or the power to shut them up hereafter, would be a thing not to be tolerated by England.

Nor could we submit to be excluded, either positively or constructively, from a sea in which the skill and science of our seamen has been and is still employed in enterprizes interesting not to this country alone, but to the whole civilized world.

The protection given by the Convention to the American coasts of each Power may (if it is thought necessary) be extended in terms to the coasts of the Russian Asiatic territory; but in some way or other, if not in the form now prescribed, the free navigation of Behring's Straits and of the seas beyond them must be secured to us.

These being the only questions suggested by Count Lieven, I trust I may anticipate with confidence the conclusion and signature of the Convention, nearly in conformity to the "Projet," and with little trouble to your Excellency.

The long delay of the ship makes it peculiarly satisfactory to me to have reduced your Excellency's task in this matter within so small a compass.

I am, &c. (Signed) GEORGE CANNING.

No. 45.

Memorandum from Count Lieven on the North-West Coast Convention.

Le Projet de Convention rédigé par le Cabinet Anglais fait courir la limite des possessions Russes et Anglaises sur la côte nord-ouest d'Amérique au sud du Mont Élie; *le long de la base des montagnes qui suivent les sinuosités de cette côte.* Il est à observer qu'en thèse générale, lorsqu'une chaîne de montagnes sert à fixer une limite quelconque, c'est toujours la *cime* de ces montagnes qui forme la ligne de démarcation. Dans le cas dont il s'agit ici le mot de *base* par le sens indéfini qu'il présente, et le plus ou moins d'extension qu'on peut lui donner, ne paraît guère propre à mettre la délimitation à l'abri de toutes contestations ultérieures, car il ne serait point impossible, vû le peu de certitude des notions géographiques que l'on possède encore sur ces parages, que les montagnes désignées pour limite s'étendissent par une pente insensible jusqu'aux bords même de la côte.

Quant à la clause du même "Projet," ayant pour but d'assurer aux vaisseaux Anglais l'entrée libre dans la Mer Glaciale par le Détroit de Behring, il semble en premier lieu que cete condition, entièrement nouvelle, est par sa nature étrangère à l'objet spécial de la négociation; et les termes généraux dans lesquels elle est conçue feront peut-être hésiter le Gouvernement Impérial à l'admettre sans en modifier l'énoncé actuel pour ne point exposer les côtes de ses possessions Asiatiques dans la Mer Glaciale aux inconvéniens qui pourraient naître de la visite des bâtimens étrangers.

No. 46.

Mr. Addington to Mr. G. Canning.—(Received September 8.)

No. 39.] WASHINGTON, *August 2, 1824.*

SIR: A convention concluded between this Government and that of Russia for the settlement of the respective claims of the two nations to the intercourse with the north-western coast of America reached the Department of State a few days since.

67 The main points determined by this instrument are, as far as I can collect from the American Secretary of State, (1) the enjoyment of a free and unrestricted intercourse by each nation with all the settlements of the other on the north-west coast of America; and (2) a stipulation that no new Settlements shall be formed by Russia, south, or by the United States, north, of latitude 54° 40′.

The question of the *mare clausum*, the sovereignty over which was asserted by the Emperor of Russia in his celebrated Ukase of 1821, but virtually, if not expressly, renounced by a subsequent declaration of that Sovereign, has, Mr. Adams assures me, not been touched upon in the above-mentioned Treaty.

Mr. Adams seemed to consider any formal stipulation recording that renunciation as unnecessary and supererogatory.

I have, &c.

(Signed) H. U. ADDINGTON.

No. 47.

Sir C. Bagot to Mr. G. Canning.—(Received September 9.)

No. 41.] ST. PETERSBURGH, *August 12, 1824.*

SIR: You will certainly learn with considerable surprise that, so far from having it in my power, as I had confidently hoped that I should have, to bring with me, on my return to England, a Treaty signed and ratified by the Russian Government, upon the subject of the north-west coasts of America, I am already enabled to acquaint you that, after only two meetings with the Russian Plenipotentiaries, I have ascertained that it is totally impossible to conclude with them any arrangement upon the subject which is at all reconcileable with the "Projet" transmitted to me in your despatch No. 26 of the 12th of last month, even if I were to take upon myself to exercise, upon several points of it, a discretion which is not given to me by your instructions.

To satisfy His Majesty's Government upon this subject, it seems only necessary that I should transmit to you the inclosed copy of a "Contre-Projet" offered to me by the Imperial Plenipotentiaries on the day after our first meeting, viz., on Saturday last, the 21st instant.

The differences between this "Contre-Projet" and the "Projet" which I had given in are, in many respects, unimportant, consisting either in unnecessary changes in the expressions, or in the order of the Articles, or in other minor points, none of which, as I have reason to think, would have been tenaciously adhered to, and of which some might have been safely admitted. But there are three points upon which the differences appear to be almost, if not altogether, irreconcileable.

These points are:

1. As to the opening *for ever* to the commerce of British subjects, of the port of Novo-Archangelsk.

2. As to the liberty to be granted to British subjects to navigate and trade *for ever* along the coast of the *lisière* which it is proposed to cede to Russia, from the Portland Channel to the 60th degree of north latitude, and the islands adjacent.

3. As to the liberty to be given reciprocally to each Power to visit, for a term of years, the other parts of the north-west coasts of America.

As to the first of these points, the Russian Plenipotentiaries declare that, however disposed they might, and probably should be, to renew

this liberty to His Majesty's subjects at the expiration of ten years, they can, under no circumstances, consent to divest themselves for ever of a discretionary power in this respect, by granting such a privilege in perpetuity.

Upon this point I reminded the Plenipotentiaries that the freedom of the port of Novo-Archangelsk was originally offered to Great Britain by themselves, unsolicited and unsuggested by me, in the first "Contre-Projet" which they gave to me in our former conferences; that the same offer had been repeated by Count Nesselrode in his despatch to Count Lieven of the 5th April last, and that upon neither occasion had it been accompanied by any restriction as to any period of time. It is admitted to me that no period of time was specified upon those occasions, but that it was never intended to declare that the freedom should be perpetual, and that they could never be induced to grant it upon such terms.

As to the second point: The Russian Plenipotentiaries declare that they are ready to grant to His Majesty's subjects for ten years, but for no longer period, the liberty to navigate and trade along the
68 coast of the *lisière* proposed to be ceded to Russia, from the Portland Channel to the 60th degree of north latitude, and the islands adjacent; and that they are ready to grant *for ever* the right of ingress and egress into and from whatever rivers may flow from the American continent and fall into the Pacific Ocean within the above-described *lisière* but that they can, under no circumstances, and by no supposed correspondent advantages, be induced to grant to any Power the privilege to navigate and trade in perpetuity within a country the full sovereignty of which was to belong to Russia; that such perpetual concession was repugnant to all national feeling, and was inconsistent with the very idea of sovereignty.

As regards the third point, the Russian Plenipotentiaries declared that the coasts of North America extending from the 60th degree of north latitude to Behring's Straits, the liberty to visit which, under certain conditions, is stipulated in the "Projet" by Great Britain, in return for a similar liberty to be given, under the same conditions, to Russian subjects to visit the North American coasts belonging to His Majesty, are, and have always been, the absolute and undisputed territory of His Imperial Majesty, and that it is not the intention of His Imperial Majesty to grant to any Power whatever for any period of time the liberty which is required.

These are the three principal points upon which I was yesterday distinctly given to understand that the Russian Government would consider it their duty to insist, and, consequently, that, unless my instructions should enable me to modify the "Projet" so far as regarded them, the negotiations must be considered as at an end.

It is, I believe, scarcely necessary that, after having stated this, I should trouble you with any further observations upon the subject.

The other differences which exist between the "Projet" and the "Contre-Projet," though numerous, are, as I have said before, of minor importance, and such as would, I think, have been easily adjusted. What they are will be best shown by the "Contre-Projet" inclosed.

I hope that His Majesty's Government will give me credit for not having too hastily supposed that the objections urged by the Russian Plenipotentiaries were insurmountable. I am, I think, too well acquainted with, and have too long negotiated upon, this subject to have deceived myself in this respect, and I am fully persuaded, from what has passed between Count Nesselrode, M. Poletica, and myself

since the arrival of your instructions, that the determination of the Russian Government is now taken rather to leave the question unsettled between the two Governments for any indefinite time, than to recede from their pretensions so far as they regard the three points which I have particularly specified.

In closing yesterday the Conference, which assured me that all further chance of negotiation was, for the present at least, terminated, I thought it my duty to remind the Russian Plenipotentiaries that the maritime jurisdiction assumed by Russia in the Pacific, which he had hoped to see revoked in the simplest and least unpleasant manner by mixing it with a general adjustment of other points, remained, by the breaking off of our negotiations, still unretracted; and, that my Government would probably be of opinion that, upon that part of the question some arrangement must yet be entered into.

It may be proper to add that, in reference to the 6th Article of the "Contre-Projet," I gave the Russian Plenipotentiaries distinctly to understand that neither His Majesty's Government nor those of the other Maritime Powers of the world would, as I thought, be likely to accept the free navigation of Behring's Straits as a concession on the part of Russia.

I have, &c. (Signed) CHARLES BAGOT.

[Inclosure in No. 47.]

Counter-Draft of the Russian Plenipotentiaries.

Sa Majesté l'Empereur de Toutes les Russies et Sa Majesté le Roi du Royaume-Uni de la Grande Bretagne et de l'Irlande voulant resserrer les liens d'amitié et de bonne intelligence qui les unissent, moyennant un accord qui réglerait d'après le principe des convenances réciproques, les limites de leurs possessions et Établissemens sur la côte nord-ouest de l'Amérique, ainsi que différens points relatifs au commerce, à la navigation, et aux pêcheries de leurs sujets sur l'Océan Pacifique, ont nommé
69 des Plénipotentiaires pour conclure une Convention à cet effet, savoir, &c., lesquels, après s'être communiqué, &c., ont arrêté et signé les Articles suivans:

ARTICLE I.

La ligne de démarcation entre les possessions des deux Hautes Parties Contractantes sur la côte nord-ouest de l'Amérique et les îles adjacentes, sera tracée ainsi qu'il suit:

A partir des deux points qui forment l'extrémité méridionale de l'île dite du Prince de Galles, laquelle appartiendra tout entière à la Russie, points situés sous la parallèle du 54° 40′ de latitude nord, et entre les 131° et 133° de longitude ouest (méridien de Greenwich) la ligne de la frontière entre les possessions Russes et les possessions Britanniques remontera au nord par la passe, dite le Portland Channel, jusqu'au point où cette passe se termine dans l'intérieur de la terre ferme au 56° de latitude nord. De ce point, elle suivra cette côte parallèlement à ses sinuosités jusqu'au 139° de longitude ouest (même méridien) et de là, la frontière entre les possessions respectives sur le Continent Américain sera formée par la ligne du susdit degré de longitude dans sa prolongation jusqu'à la Mer Glaciale.

ARTICLE II.

La lisière de la côte nord-ouest appartenante à la Russie depuis le Portland Channel jusqu'au point d'intersection du 139° de longitude ouest (méridien de Greenwich) n'aura point en largeur sur le continent plus de 10 lieues marines à partir du bord de la mer.

ARTICLE III.

Il est convenu—

1. Que dans les possessions des deux Puissances, telles qu'elles sont désignées aux Articles précédens et nommément jusqu'à la hauteur du 59° 30′ de latitude nord, mais point au delà, leurs vaisseaux respectifs, et ceux de leurs sujets auront pendant dix ans à compter du 5 (17) Avril, 1824, la faculté réciproque de fréquenter librement

les golphes, hâvres, criques, dans les parties des îles et des côtes, qui ne seraient point occupées par des Établissemens soit Russes, soit Britanniques, et d'y faire la pêche et le commerce avec les naturels du pays.

2. Que partout où il y aura un Établissement de l'une des Hautes Puissances Contractantes, les sujets de l'autre ne pourront y aborder sans la permission du Commandant ou préposé du lieu, sauf les cas d'accidens ou de tempête.

3. Que la liberté de commerce ci-dessus mentionnée ne comprendra ni les liqueurs spiritueuses, ni les armes à feu et armes blanches, ni la poudre à canon et autres munitions de guerre: tous articles que les Hautes Puissances Contractantes s'engagent réciproquement à ne pas laisser vendre par leurs sujets respectifs aux naturels de la côte et des îles nord-ouest de l'Amérique.

4. Que sur la lisière de la dite côte indiquée en l'Article II de la présente Convention comme appartenante à la Russie les sujets de Sa Majesté Britannique jouiront à perpétuité de la libre navigation des fleuves, soit qu'ils habitent l'intérieur du continent, soit qu'ils veulent y arriver de l'Océan Pacifique au moyen de ces mêmes fleuves.

5. Que le port de Sitka ou Novo-Archangelsk sera ouvert, pendant dix ans, au commerce étranger, et qu'à l'expiration de ce terme cette franchise sera renouvelée suivant les convenances de la Russie.

ARTICLE IV.

A l'avenir il ne pourra être formé aucun Établissement par les sujets de Sa Majesté Britannique dans les limites des possessions Russes désignées aux Articles I et II et de même il n'en pourra être formé aucun par les sujets de Sa Majesté l'Empereur de Toutes les Russies hors des dites limites.

ARTICLE V.

Les Hautes Puissances Contractantes stipulent en outre que leurs sujets respectifs navigueront librement, sur toute l'étendue de l'Océan Pacifique, tant au nord qu'au sud, sans entrave quelconque, et qu'ils jouiront du droit de pêche en haute mer, mais que ce droit ne pourra jamais être exercé qu'à la distance de 2 lieues marines des côtes ou possessions, soit Russes, soit Britanniques.

ARTICLE VI.

Sa Majesté l'Empereur de Toutes les Russies, voulant même donner une preuve particulière de ses égards pour les intérêts des sujets de Sa Majesté Britannique et rendre plus utile le succès des entreprises, qui auraient pour résultat de découvrir un passage au nord du Continent Américain, consent à ce que la liberté de navigation mentionnée en l'Article précédent s'étende sous les mêmes conditions, au Détroit de Behring et à la mer située au nord de ce détroit.

ARTICLE VII.

Les vaisseaux Russes et Britanniques navigant sur l'Océan Pacifique et la mer ci-dessus indiquée, qui seroient forcés par les tempêtes ou par quelque avarie, de se réfugier dans les ports respectifs des Hautes Parties Contractantes, pourront s'y radouber, s'y pourvoir de tous les objets qui leur seront nécessaires et se remettre en mer librement, sans payer d'autres droits que ceux de port et de fanaux, lesquels seront fixés pour eux du même montant que pour les navires nationaux.

En pareilles occasions les patrons des bâtimens, soit Russes, soit Britanniques, seront tenus de se conformer aux lois, Ordonnances, et Tarifs en vigueur dans le port, où ils auront abordé.

ARTICLE VIII.

Dans tous les cas de plainte sur l'infraction des Articles du présent accord, les officiers et fonctionnaires publics s'abstiendront de part et d'autre de toute violence ou voye de fait, et rendront un compte exact de l'affaire et de ses circonstances à leurs Cours respectives, lesquelles termineront le différend à l'amiable, et selon les principes d'une mutuelle justice.

ARTICLE IX.

La présente Convention sera ratifiée et les ratifications en seront échangées dans l'espace de ——— mois, ou plutôt si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont apposé le cachet de leurs armes.

Fait à St. Pétersbourg, le ———, 1824.

No. 48.

Mr. G. Canning to Count Lieven.

FOREIGN OFFICE, *September 12, 1824.*

M. LE COMTE: It is with great regret, and, I confess, with some surprise, that I have learnt from Sir Charles Bagot that your Court have declined to conclude the Treaty, the project of which was sent out by the "Herald."

This refusal is the more unexpected, as the chief alterations made in the original "Projet" were introduced here (as your Excellency can bear witness) at the suggestion of the Russian Plenipotentiaries themselves.

I have not yet had time to give sufficient consideration to the "Contre-Projet" now presented on the part of those Plenipotentiaries, to be enabled to say positively whether it can be accepted in all its parts. But I would fain hope that the differences between us may be not insurmountable. And I do most earnestly entreat your Excellency to submit to your Court, by your first messenger, the expediency of sending to your Excellency instructions and full powers to conclude and sign the Treaty here.

This will save three months. It will enable us to conclude before the meeting of Parliament. And I do assure your Excellency that, after the expectations which have been so often held out to Parliament of a speedy and satisfactory termination of the discussions respecting the Ukase of 1821, I cannot look forward without uneasiness to the disappointment of those expectations.

71 I know that the Ukase is practically suspended; but we have no document to show that it is so; and we have, as your Excellency knows, purposely abstained from requiring any, in the hope that the subject of the Ukase would be merged in the larger arrangements respecting the north-west coast of America.

I write to Mr. Ward in the sense of this letter. And I most anxiously wish that no personal delicacy may prevent your Excellency from repeating and enforcing my suggestion.

I have, &c.

(Signed) GEORGE CANNING.

No. 49.

Mr. G. Canning to Mr. Ward.

No. 3.] FOREIGN OFFICE, *September 13, 1824.*

SIR: Sir Charles Bagot's despatches of the 26th August were received here on the 9th instant, and have been laid before the King.

The only point on which I have to instruct you, in consequence of their arrival, is that of the refusal of the Court of St. Petersburgh to conclude and sign the Treaty respecting the north-west coast of America.

Nothing could be less expected than this refusal, and the grounds of it are the more unsatisfactory, as part at least of the stipulations to which objection is taken, was founded on suggestions of the Russian Plenipotentiaries themselves.

I do not, however, intend that you should enter into argument upon this subject with Count Nesselrode, or the Minister to whom the *Portefeuille* may be intrusted in his absence. What you are to represent, and earnestly to urge with the Russian Government, is that they should send to Count Lieven instructions and full powers to conclude and sign the Treaty here. By these means it will still be possible to bring it to a conclusion before the meeting of Parliament. And you will assure the Russian Minister that this consideration weighs with us most particularly, because the hope and promise of some amicable and satisfactory arrangement touching the Ukase of 1821, has been so often confidently held out to Parliament, that we look forward with great anxiety to the discussions which might arise upon a fresh disappointment of those expectations.

I am, &c. (Signed) GEORGE CANNING.

No. 50.

Sir C. Bagot to Mr. G. Canning.—(Received October 23.)

[Extract.]

No. 46.] WASHINGTON, *August 31, 1824.*

The Count de Medem, a gentleman in the service of the Emperor of Russia, reached this place some days since as bearer to the Russian Envoy of the Convention relative to the trade in the North Pacific and coast of America, lately concluded at St. Petersburgh between the Court of Russia and the United States. The inclosed extract from the "National Intelligencer," which may be considered official, presents a synopsis of that Treaty Article by Article.

[Inclosure in No. 50.]

Extract from the "National Intelligencer" of August 3, 1824.

CONVENTION WITH RUSSIA.—Mr. Lucius Bull, who arrived in this city a few days ago, was the bearer of despatches from our Minister at St. Petersburgh. By these it appears that a Convention was concluded on the 5th (17th) April last between Mr. Middleton, on the part of the United States, and Count Nesselrode and M. Poletica on the part of Russia. We understand that the Convention consists of six Articles, in which all the points in dispute between the two Governments are adjusted, in a manner the most honourable and advantageous to this country.

72 The Ist Article authorizes the free navigation of the Pacific Ocean by both Parties, and recognizes the right of fishing and of landing on all points of the west coast not already occupied, in order to trade with the aborigines.

IInd Article provides that the citizens or subjects of neither country shall land at points occupied by either, without the permission of the Governor or Commandant.

IIIrd Article fixes the boundary-line at 54°, north of which the United States are not to form Establishments, and south of which Russia cannot advance.

IVth Article allows free entrance to both Parties for ten years into all the gulphs, harbours, &c., of each for the purposes of fishing and trading with the natives.

Vth Article interdicts a trade in fire-arms and liquors, and provides that violations of this Article shall be punished, not by seizure of the vessel, but by penalties to be prescribed by each Government on its own citizens or subjects.

VI.—This Article prescribes that the ratification shall be changed within ten months from the date of the Treaty.

This Convention may be regarded as a second signal effect of the manly and independent Message of our President to the late Congress. If the Emperor Alexander had left it to our own Government to fix the terms of the Treaty, it could not more completely have secured all our interests in the Pacific. We congratulate the country upon this new evidence of the excellence of the system which has been *pursued* by our present Administration.

No. 51.

Mr. G. Canning to Count Lieven.

ICKWORTH, *October 25, 1824.*

MY DEAR COUNT LIEVEN: I cannot refrain from sending to your Excellency the inclosed extract from an American newspaper, by which you will see that I did not exaggerate what I stated to you, as the American construction of the Convention signed at St. Petersburgh.

It is to this construction that I referred, when I claimed for England (as justly quoted by Count Nesselrode) whatever was granted to other nations.

No limitations here of 59°.

Believe me, &c. (Signed) GEORGE CANNING.

P. S.—May I trouble your Excellency to return this paper to Mr. Planta as (though only an extract from a newspaper) it is an inclosure in a despatch received to-day.

G. C.

No. 52.

Mr. G. Canning to Mr. S. Canning.

No. 1.] FOREIGN OFFICE, *December 8, 1824.*

SIR: His Majesty having been graciously pleased to name you his Plenipotentiary for concluding and signing with the Russian Government a Convention for terminating the discussions which have arisen out of the promulgation of the Russian Ukase of 1821, and for settling the respective territorial claims of Great Britain and Russia on the north-west coast of America, I have received His Majesty's commands to direct you to repair to St. Petersburgh for that purpose, and to furnish you with the necessary instructions for terminating this long protracted negotiation.

The correspondence which has already passed upon this subject has been submitted to your perusal, and I inclose to you a copy—

1. Of the "projet" which Sir Charles Bagot was authorized to conclude and sign some months ago, and which we had every reason to expect would have been entirely satisfactory to the Russian Government.

2. Of a "contre-projet" drawn up by the Russian Plenipotentiaries, and presented to Sir Charles Bagot at their last meeting before Sir Charles Bagot's departure from St. Petersburgh.

73 3. Of a despatch from Count Nesselrode, accompanying the transmission of the "contre-projet" to Count Lieven.

In that despatch, and in certain marginal annotations upon the copy of the "projet," are assigned the reasons of the alterations proposed by the Russian Plenipotentiaries.

In considering the expediency of admitting or rejecting the proposed alterations, it will be convenient to follow the Articles of the Treaty in the order in which they stand in the English "projet."

You will observe in the first place that it is proposed by the Russian Plenipotentiaries entirely to change that order, and to transfer to the latter part of the instrument the Article which has hitherto stood first in the "projet."

To that transposition we cannot agree, for the very reason which Count Nesselrode alleges in favour of it, viz., that the "économie" or arrangement of the Treaty ought to have reference to the history of the negotiation.

The whole negotiation grows out of the Ukase of 1821.

So entirely and absolutely true is this proposition that the settlement of the limits of the respective possessions of Great Britain and Russia on the north-west coast of America was proposed by us only as a mode of facilitating the adjustment of the difference arising from the Ukase by enabling the Court of Russia, under cover of the more comprehensive arrangement, to withdraw, with less appearance of concession, the offensive pretensions of that Edict.

It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the Continent of America, but the pretensions of the Russian Ukase of 1821 to exclusive dominion over the Pacific could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

You will therefore take care, in the first instance, to repress any attempt to give this change to the character of the negotiation, and will declare without reserve that the point to which alone the solicitude of the British Government and the jealousy of the British nation attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the Ukase of 1821.

That this Ukase is not acted upon, and that instructions have been long ago sent by the Russian Government to their cruizers in the Pacific to suspend the execution of its provisions, is true; but a private disavowal of a published claim is no security against the revival of that claim. The suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself, and when we have seen in the course of this negotiation that the Russian claim to the possession of the coast of America down to latitude 59 rests in fact on no other ground than the presumed acquiescence of the nations of Europe in the provisions of an Ukase published by the Emperor Paul in the year 1800, against which it is affirmed that no public remonstrance was made, it becomes us to be exceedingly careful that we do not, by a similar neglect, on the present occasion allow a similar presumption to be raised as to an acquiescence in the Ukase of 1821.

The right of the subjects of His Majesty to navigate freely in the Pacifick cannot be held as matter of indulgence from any Power. Having once been publickly questioned, it must be publickly acknowledged.

We do not desire that any distinct reference should be made to the Ukase of 1821; but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the Convention in the place which properly belongs to it, as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the front of the Convention concluded between Russia and the United States of America; and we see no reason why upon similar claims we should obtain exactly the like satisfaction.

For reasons of the same nature we cannot consent that the liberty of navigation through Behring's Straits should be stated in the Treaty as *a boon from* Russia.

The tendency of such a statement would be to give countenance to those claims of exclusive jurisdiction against which we, on our own behalf, and on that of the whole civilized world, protest.

No specification of this sort is found in the Convention with the United States of America, and yet it cannot be doubted that the Americans consider themselves as secured in the right of navigating Behring's Straits and the sea beyond them.

74 It cannot be expected that England should receive as a boon that which the United States hold as a right so unquestionable as not to be worth recording.

Perhaps the simplest course after all will be to substitute, for all that part of the "projet" and "counter-projet" which relates to maritime rights and to navigation, the first two Articles of the Convention already concluded by the Court of St. Petersburgh with the United States of America, in the order in which they stand in that Convention.

Russia cannot mean to give to the United States of America what she withholds from us; nor to withhold from us anything that she has consented to give to the United States.

The uniformity of stipulations *in pari materiâ* gives clearness and force to both arrangements, and will establish that footing of equality between the several Contracting Parties which it is most desirable should exist between three Powers whose interests come so nearly in contact with each other in a part of the globe in which no other Power is concerned.

This therefore is what I am to instruct you to propose at once to the Russian Minister as cutting short an otherwise inconvenient discussion.

This expedient will dispose of Article I of the "projet" and of Article V and VI of the "contre-projet."

The next Articles relate to the territorial demarcation, and upon them I have only to make the following observations:

The Russian Plenipotentiaries propose to withdraw entirely the limit of the *lisière* on the coast which they were themselves the first to propose, viz., the summit of the mountains which run parallel to the coast, and which appear, according to the Map, to follow all its sinuosities, and to substitute generally that which we only suggested as a corrective of their first proposition.

We cannot agree to this change. It is quite obvious that the boundary of mountains, where they exist, is the most natural and effectual boundary. The inconvenience against which we wished to guard was that which you know and can thoroughly explain to the Russian Plenipotentiaries to have existed on the other side of the American Continent, when mountains laid down in a Map as in a certain given position, and assumed in faith of the accuracy of that Map as a boundary between the possessions of England and the United States turned out to be quite differently situated, a discovery which has given rise to the most perplexing discussions. Should the Maps be no more accurate as to the western than as to the eastern mountains, we might be assigning to Russia immense tracts of inland territory, where we only intended to give and they only intended to ask, a strip of sea coast.

To avoid the chance of this inconvenience we proposed to qualify the general proposition, "that the mountains should be the boundary, with the condition if those mountains should not be found to extend beyond 10 leagues from the coast." The Russian Plenipotentiaries now propose to take the distance invariably as the rule. But we cannot consent to this change. The mountains, as I have said, are a more eligible boundary than any imaginary line of demarcation, and this being their own

original proposition the Russian Plenipotentiaries cannot reasonably refuse to adhere to it.

Where the mountains are the boundary, we are content to take the *summit* instead of the "seaward base" as the line of demarcation.

I omitted in my last instructions to Sir Charles Bagot, though I had signified to Count Lieven, that I intended to require a small extension of the line of demarcation from the point where the *lisière* on the coast terminates in latitude 59 to the northward. The extension required is from 139° to 141° west longitude, the latter being the parallel which falls more directly on Mount Elias.

With regard to the port of Sitka, or New-Archangel, the offer came originally from Russia, but we are not disposed to object to the restriction which she now applies to it.

We are content that the port shall be open to us for ten years, provided only that if any other nation obtains a more extended term, the like term shall be extended to us also.

We are content also to assign the period of ten years for the reciprocal liberty of access and commerce with each other's territories, which stipulation may be best stated precisely in the terms of Article 4 of the American Convention.

These, I think, are the only points in which alterations are required by Russia. And we have no other to propose.

A "projet" such as it will stand according to the observations
75 of this despatch is inclosed, which you will understand as furnished to you as a guide for the drawing up of the Convention, but not as prescribing the precise form of words, nor fettering your discretion as to any alterations, not varying from the substance of these instructions.

It will of course strike the Russian Plenipotentiaries that by the adoption of the American Article respecting navigation, &c., the provision for an exclusive fishery of 2 leagues from the coasts of our respective possessions falls to the ground.

But the omission is in truth immaterial.

The law of nations assigns the exclusive sovereignty of 1 league to each Power on its own coasts, without any specific stipulation, and though Sir Charles Bagot was authorized to sign the Convention with the specific stipulation of 2 leagues, in ignorance of what had been decided in the American Convention, at the time, yet, after that Convention has been some months before the world, and after the opportunity of consideration has been forced upon us by the act of Russia herself, we cannot now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contract between the United States and us to our disadvantage.

Count Nesselrode himself has frankly admitted that it was natural that we should expect, and reasonable that we should receive, at the hands of Russia, equal measure, in all respects, with the United States of America.

It remains only in recapitulation, to remind you of the origin and principles of this whole negotiation.

It is *not* on our part, essentially a negotiation about limits.

It is a demand of the repeal of an offensive and unjustifiable arrogation of exclusive jurisdiction over an ocean of unmeasured extent; but a demand qualified and mitigated in its manner, in order that its justice may be acknowledged and satisfied without soreness or humiliation on the part of Russia.

We negotiate about territory to cover the remonstrance upon principle.

But any attempt to take undue advantage of this voluntary facility, we must oppose.

If the present "Projet" is agreeable to Russia, we are ready to conclude and sign the Treaty.

If the territorial arrangements are not satisfactory, we are ready to postpone them; and to conclude and sign the essential part, that which relates to navigation alone, adding an Article, stipulating to negotiate about territorial limits hereafter.

But we are not prepared to defer any longer the settlement of that essential part of the question, and if Russia will neither sign the whole Convention nor that essential part of it, she must not take it amiss that we resort to some mode of recording in the face of the world our protest against the pretensions of the Ukase of 1821, and of effectually securing our own interests against the possibility of its future operation.

I am, &c.

(Signed) GEORGE CANNING.

No. 53.

Mr. Addington to Mr. G. Canning.—(Received March 4.)

No. 9.] WASHINGTON, *January 29, 1825.*

SIR: I have the honor to transmit to you herewith an official copy of the Convention concluded on the 5th (17th) April last, between the United States and Russia, and ratified on the 12th instant by the President, for defining the extent of the rights of either nation to the navigation of the Northern Pacific, and their traffic and intercourse with the north western coast of America.

I have, &c. (Signed) H. U. ADDINGTON.

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79 [Inclosure in No. 53.]

13TH CONGRESS, 2ND SESSION.

Message from the President of the United States, transmitting a Copy of the Convention between the United States and the Emperor of Russia. Concluded at St. Petersburgh on the 5th of April last.

JANUARY 21, 1825.—Read: ordered that it lie upon the table.

MESSAGE.

To the House of Representatives of the United States:

I communicate herewith, to both Houses of Congress, copies of the Convention between the United States and His Majesty the Emperor of All the Russias, concluded at St. Petersburgh on the 5th (17th) of April last, which has been duly ratified on both sides, and the ratifications of which were exchanged on the 11th instant.

(Signed) JAMES MONROE.

WASHINGTON, *January 18, 1825.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and His Majesty the Emperor of All the Russias, was concluded and signed at St. Petersburgh, on the 5th (17th) day of April, in the year of Our Lord one thousand eight hundred and twenty-four; which Convention, being in the French language, is, word for word, as follows, a translation of the same being hereto annexed:

[Original.]

Au nom de la Très-Sainte et Indivisible Trinité.

Le Président des États-Unis d'Amérique, et Sa Majesté l'Empereur de Toutes les Russies, voulant cimenter les liens d'amitié qui les unissent, et assurer entre eux le maintien invariable d'un parfait accord, moyennant la présente Convention, ont nommé pour leurs Plénipotentiaires à cet effet, savoir: Le Président des États-Unis d'Amérique, le Sieur Henry Middleton, citoyen des dits États, et leur Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Impériale; et Sa Majesté l'Empereur de Toutes les Russies, ses amis et féaux les Sieurs Charles Robert, Comte de Nesselrode, Conseiller Privé actuel, Membre du Conseil d'État, Secrétaire d'État dirigeant le Ministère des Affaires Étrangères, Chambellan actuel, Chevalier de l'Ordre de St. Alexandre Nevsky, Grand-Croix de l'Ordre de St. Wladimir de la première classe, Chevalier de celui de l'Aigle Blanc de Pologne, Grand-Croix de l'Ordre de St. Étienne d'Hongrie, Chevalier des Ordres du St. Esprit et de St. Michel et Grand-Croix de celui de la Légion d'Honneur de
77 France, Chevalier Grand-Croix des Ordres de l'Aigle Noir et de l'Aigle Rouge de Prusse, de l'Anonciade de Sardaigne, de Charles III d'Espagne, de St. Ferdinand et du Mérite de Naples, de l'Éléphant de Danemarc, de l'Étoile Polaire de Suède, de la Couronne de Wurtemberg, des Guelphes de Hanovre, du Lion Belge, de la Fidélité de Bade, et de St. Constantin de Parme; et Pierre de Poletica, Conseiller d'État actuel, Chevalier de l'Ordre de Ste. Anne de la première classe, et Grand-Croix de l'Ordre de St. Wladimir de la seconde; lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté et signé les stipulations suivantes:

ARTICLE I.

Il est convenu que dans aucune partie du Grand Océan, appelé communément Océan Pacifique ou Mer du Sud, les citoyens ou sujets respectifs des Hautes Puissances Contractantes ne seront ni troublés, ni *gênés, soit* dans la navigation, soit dans

[Translation.]

In the name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the Emperor of All the Russias, wishing to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord, by means of the present Convention, have named as their Plenipotentiaries to this effect, to wit: The President of the United States of America, Henry Middleton, a citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near his Imperial Majesty; and His Majesty the Emperor of All the Russias, his beloved and faithful Charles Robert, Count of Nesselrode, actual Privy Counsellor, Member of the Council of State, Secretary of State directing the Administration of Foreign Affairs, actual Chamberlain, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Wladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the order of St. Stephen of Hungary, Knight of the Orders of the Holy Ghost and of St. Michael, and Grand Cross of the Legion of Honour of France, Knight Grand Cross of the Orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Wurtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and Pierre de Poletica, actual Counsellor of State, Knight of the Order of St. Anne of the first class, and Grand Cross of the Order of St. Wladimir of the second; who, after having exchanged their full powers, found in good and due form, having agreed upon and signed the following stipulations:

ARTICLE I.

It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fish-

l'exploitation de la pêche, soit dans la faculté d'aborder aux côtes sur des points qui ne seroient pas déjà occupés, afin d'y faire le commerce avec les indigènes, sauf toutefois les restrictions et conditions déterminées par les Articles qui suivent.

ARTICLE II.

Dans la vue d'empêcher que les droits de navigation et de pêche exercés sur le Grand Océan par les citoyens et sujets des Hautes Puissances Contractantes ne deviennent le prétexte d'un commerce illicite, il est convenu que les citoyens des États-Unis n'aborderont à aucun point où il se trouve un Établissement Russe, sans la permission du Gouverneur ou Commandant; et que réciproquement les sujets Russes ne pourront aborder sans permission à aucun Établissement des États-Unis sur la côte nord-ouest.

ARTICLE III.

Il est convenu en outre, que dorénavant il ne pourra être formé par les citoyens des États-Unis, ou sous l'autorité des dits États, aucun Établissement sur la côte nord-ouest d'Amérique, ni dans aucune des îles adjacentes *au nord* du 54° 40′ de latitude septentrionale; et que de même il n'en pourra être formé aucun par des sujets Russes, ou sous l'autorité de la Russie, *au sud* de la même paralèlle.

78 ARTICLE IV.

Il est néanmoins entendu que pendant un terme de dix années à compter de la signature de la présente Convention, les vaisseaux des deux Puissances, ou qui appartiendroient à leurs citoyens ou sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, les mers intérieures, les golfes, hâvres, et criques sur la côte mentionnée dans l'Article précédent, afin d'y faire la pêche et le commerce avec les naturels du pays.

ARTICLE V.

Sont toutefois exceptées de ce même commerce accordé par l'Article précédent, toutes les liqueurs spiritueuses, les armes à feu, armes blanches, poudre, et munitions de guerre de toute espèce, que les deux Puissances s'engagent réciproquement à ne pas vendre, ni laisser vendre aux indigènes par leurs citoyens et sujets respectifs, ni par aucun individu qui se trouveroit sous leur autorité. Il est également stipulé que cette restriction ne pourra jamais servir de prétexte, ni être alleguée dans aucun cas, pour autoriser soit la visite ou la détention des vaisseaux, soit la saisie de la marchandise, soit enfin des mesures quelconques de contrainte envers les armateurs ou les équipages qui feroient ce commerce; les Hautes Puissances Contractantes s'étant

ing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles:

ARTICLE II.

With the view of preventing the rights of navigation and of fishing, exercised upon the Great Ocean by the citizens and subjects of the High Contracting Powers, from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian Establishment, without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any Establishment of the United States upon the north-west coast.

ARTICLE III.

It is, moreover, agreed that hereafter there shall not be formed by the citizens of the United States, or under the authority of the said States, any Establishment upon the north-west coast of America, nor in any of the islands adjacent, *to the north* of 54° 40′ of north latitude; and that, in the same manner there shall be none formed by Russian subjects, or under the authority of Russia, *south* of the same parallel.

ARTICLE IV.

It is, nevertheless, understood that, during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.

ARTICLE V.

All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind are always excepted from this same commerce permitted by the preceding Article; and the two Powers engage reciprocally neither to sell, or suffer them to be sold to the natives, by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever, towards the merchants or the crews who may carry on this commerce, the High Contracting Powers reciprocally reserving to themselves to determine upon the penalties to

réciproquement réservé de statuer sur les peines à encourir, et d'infliger les amendes encourues en cas de contravention à cet Article, par leurs citoyens ou sujets respectifs.

ARTICLE VI.

Lorsque cette Contravention aura été duement ratifiée par le Président des États-Unis de l'avis et du consentement du Sénat, d'une part, et de l'autre par Sa Majesté l'Empereur de Toutes les Russies, les ratifications en seront échangées à Washington dans le délai de dix mois de la date ci-dessous ou plûtot si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont fait apposer les cachets de leurs armes.

Fait à St. Pétersbourg le 5 (17) Avril de l'an de grâce mil huit cent vingt-quatre.

[L.S.] HENRY MIDDLETON.
[L.S.] Le Comte C. DE NESSELRODE.
[L.S.] PIERRE DE POLETICA.

be incurred, and to inflict the punishments in case of the contravention of this Article, by their respective citizens or subjects.

ARTICLE VI.

When this Convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate, on the one part, and on the other, by His Majesty the Emperor of All the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this Convention, and thereto affixed the seals of their arms.

Done at St. Petersburg the 5th (17th) April of the year of Grace one thousand eight hundred and twenty-four.

[L.S.] HENRY MIDDLETON.
[L.S.] Le Comte C. DE NESSELRODE.
[L.S.] PIERRE DE POLETICA.

And whereas the said Convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged
79 at Washington, on the eleventh day of the present month, by John Quincy Adams, Secretary of State of the United States, and the Baron de Tuyll, Envoy Extraordinary and Minister Plenipotentiary of His Imperial Majesty, on the part of their respective Governments:

Now, therefore, be it known that I, James Monroe, President of the United States, have caused the said Convention to be made public, to the end that the same, and every clause and Article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this twelfth day of January, in the year of Our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

(Signed) JAMES MONROE.

By the President:
(Signed) JOHN QUINCY ADAMS,
Secretary of State.

No. 54.

Mr. S. Canning to Mr. G. Canning.—(Received March 2.)

No. 13.] ST. PETERSBURGH, *February 1 (13), 1825.*

SIR: I avail myself of the return of the messenger Meates to inform you that yesterday evening I had my first conference with the Russian Plenipotentiaries, Count Nesselrode and M. de Poletica.

After mutually communicating our full powers, those of the Russian Plenipotentiaries being the same which were exhibited to Sir Charles *Bagot, I* stated that the "Projet" which I was prepared to give in,

agreeably to your instructions, respecting the differences growing out of the Imperial Ukase of September 1821 would be found to contain fresh proofs of the conciliatory spirit in which His Majesty's Government had directed this negotiation, that it was now time to bring the negotiation, either in one way or another, to its final conclusion, and, with this view, His Majesty's Ministers, in empowering me to offer a new "Projet," had gone at once to the utmost extent of concession, justified by their sense of duty, in order to remove the objections of the Russian Government.

On reading the "Projet" some difficulties were started and some discussion took place; but I hold it unnecessary to trouble you with a more particular account of this conference as the Russian Plenipotentiaries were not then prepared to express any decided opinion as to those parts of the "Projet" which do not entirely come up to their proposals, and I have expressly reserved to myself the liberty of recording my explanations in an official shape in the event of their persisting to object to any essential part of its contents.

Count Nesselrode said that he hoped to be ready with his answer in the course of a week. The Emperor's being again at Czarskoe-Zelo for two or three days may possibly occasion some delay.

I have, &c.

(Signed) STRATFORD CANNING.

No. 55.

Mr. G. Canning to Mr. S. Canning.

No. 6.] FOREIGN OFFICE, *March 15, 1825.*

SIR: Your despatches to No. 13 inclusive have been received and laid before the King.

I inclose to you a copy of a despatch received from Mr. Addington, by which you will see that the Government and Senate of the United States have ratified the Treaty of North-West American Boundaries and Navigation, which was negotiated at St. Petersburgh last year.

It is hardly necessary to point out to you the additional force which the conclusion of this transaction gives to that part of your
80 instructions on the same subject, which prescribes the demand for this country of terms as favourable as those which have been obtained by the United States.

I am, &c.

(Signed) GEORGE CANNING.

No. 56.

Mr. S. Canning to Mr. G. Canning.—(Received March 21.)

No. 15.] ST. PETERSBURGH, *February 17 (March 1), 1825.*

SIR: By the messenger Latchford I have the honour to send you the accompanying Convention between His Majesty and the Emperor of Russia respecting the Pacific Ocean and North-West Coast of America, which, according to your instructions, I concluded and signed last night with the Russian Plenipotentiaries.

The alterations which, at their instance, I have admitted into the "Projet" such as I presented it to them at first, will be found, I conceive, to be in strict conformity with the spirit and substance of His Majesty's commands. The order of the two main subjects of our negotiation, as stated in the preamble of the Convention, is preserved in the Articles of that instrument. The line of demarcation along the strip of land on the north-west coast of America assigned to Russia is laid down in the Convention agreeably to your directions, notwithstanding some difficulties raised on this point, as well as on that which regards the order of the Articles, by the Russian Plenipotentiaries.

The instance in which you will perceive that I have most availed myself of the latitude afforded by your instructions to bring the negotiation to a satisfactory and prompt conclusion, is the division of the third Article of the new "Projet," as it stood when I gave it in, into the third, fourth, and fifth Articles of the Convention signed by the Plenipotentiaries.

This change was suggested by the Russian Plenipotentiaries, and at first it was suggested in a shape which appeared to me objectionable; but the Articles, as they are now drawn up, I humbly conceive to be such as will not meet with your disapprobation. The second paragraph of the fourth Article had already appeared parenthetically in the third Article of the "Projet," and the whole of the fourth Article is limited in its signification and connected with the Article immediately preceding it, by the first paragraph.

With respect to Behring's Straits, I am happy to have it in my power to assure you, on the joint authority of the Russian Plenipotentiaries, that the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits, or of the seas to the north of them.

It cannot be necessary, under these circumstances, to trouble you with a more particular account of the several conferences which I have held with the Russian Plenipotentiaries; and it is but justice to state that I have found them disposed, throughout this latter stage of the negotiation, to treat the matters under discussion with fairness and liberality.

As two originals of the Convention prepared for His Majesty's Government are signed by the Plenipotentiaries, I propose to leave one of them with Mr. Ward for the archives of the Embassy.

I have, &c.

(Signed) STRATFORD CANNING.

No. 57.

Mr. S. Canning to Mr. G. Canning.—(Received May 3.)

No. 30.] ST. PETERSBURGH, *April 3 (15), 1825.*

SIR: I beg leave to trouble you with a few words in acknowledgment of your two despatches, the one containing a copy of a letter addressed by you to his Excellency Prince de Polignac on the subject of certain oyster fisheries lying between the Island of Jersey and the adjacent coast of France; and the other inclosing a despatch from Mr. Addington to you, announcing the ratification of the Convention concluded last year between Russia and the United States touching the navigation of the Pacific Ocean and other matters connected with that subject.

81 I trust that the objects to which the communications transmitted with those despatches relate have been found to be sufficiently secured by the Convention, which, under your instructions, I have signed, during my residence here, in concert with the Russian Plenipotentiaries.

With respect to the right of fishing, no explanation whatever took place between the Plenipotentiaries and myself in the course of our negotiations. As no objection was started by them to the Article which I offered in obedience to your instructions, I thought it unadvisable to raise a discussion on the question; and the distance from the coast at which the right of fishing is to be exercised in common passed without specification, and consequently rests on the law of nations as generally received.

Conceiving, however, at a later period that you might possibly wish to declare the law of nations thereon, jointly with the Court of Russia, in some ostensible shape, I broached the matter anew to Count Nesselrode, and suggested that he should authorize Count Lieven, on your invitation, to exchange notes with you declaratory of the law as fixing the distance at 1 marine league from the shore.

Count Nesselrode replied that he should feel embarrassed in submitting this suggestion to the Emperor just at the moment when the ratifications of the Convention were on the point of being dispatched to London; and he seemed exceedingly desirous that nothing should happen to retard the accomplishment of that essential formality. He assured me at the same time that his Government would be content, in executing the Convention, to abide by the recognized law of nations; and that, if any question should hereafter be raised upon the subject, he should not refuse to join in making the suggested declaration, on being satisfied that the general rule under the law of nations was such as we supposed.

Having no authority to press the point in question, I took the assurance thus given by Count Nesselrode as sufficient, in all probability, to answer every national purpose.

Referring to the American Treaty I am assured, as well by Count Nesselrode as by Mr. Middleton, that the ratification of that instrument was not accompanied with any explanations calculated to modify or affect in any way the force and meaning of its Articles. But I understand that, at the close of the negotiation of that Treaty, a Protocol, intended by the Russians to fix more specifically the limitations of the right of trading with their possessions, and understood by the American Envoy as having no such effect, was drawn up and signed by both parties. No reference whatever was made to this paper by the Russian Plenipotentiaries in the course of my negotiation with them; and you are aware, Sir, that the Articles of the Convention which I concluded depend for their force entirely on the general acceptation of the terms in which they are expressed.

I have, &c.

(Signed) STRATFORD CANNING.

PART 2.

SELECTIONS FROM CORRESPONDENCE BETWEEN UNITED STATES AND RUSSIA, 1822-87.

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SELECTIONS FROM CORRESPONDENCE BETWEEN THE UNITED STATES AND RUSSIA, 1822-87.

No. 1.

The Chevalier de Poletica to the Secretary of State.

WASHINGTON, *February 28, 1822.*

SIR: I received two days since the letter which you did me the honour to address to me on the same day, by order of the President of the United States, in answer to my note of the 11th current, by which I discharged the orders of my Government in communicating to you the new Regulation adopted by the Russian-American Company, and sanctioned by His Majesty the Emperor, my august Sovereign, on the 4th (16th) September, 1821, relative to foreign commerce in the waters which border upon the establishments of the said Company on the north-west coast of America.

Readily yielding, Sir, to the desire expressed by you in your letter of knowing the rights and principles upon which are founded the determinate limits of the Russian possessions on the north-west coast of America from Behring Strait to the 51st degree of north latitude, I am happy to fulfil this task by only calling your attention to the following historical facts, the authenticity of which cannot be contested. The first discoveries of the Russians on the north-west continent of America go back to the time of the Emperor Peter I. They belong to the attempt, made towards the end of the reign of this great Monarch, to find a passage from the icy sea into the Pacific Ocean.

In 1728 the celebrated Captain Behring made his first voyage.

The recital of his discoveries attracted the attention of the Government, and the Empress Anne intrusted to Captain Behring (1741) a new expedition in these same latitudes. She sent with him the Academicians Gmelin, Delile de la Crayere, Müller, Steller, Fischer, Krasilnicoff, Kræcheninicoff, and others; and the first Chart of these countries which is known was the result of their labours, published in 1758. Besides the strait which bears the name of the chief of this expedition, he discovered a great part of the islands which are found between the two continents. Cape or Mount St. Elias, which still bears this name upon all the Charts, was so called by Captain Behring, who discovered it on the day of the feast of this saint; and his second, Captain Tchiricoff, pushed his discoveries as far as the 49th degree of north latitude.

The first private expeditions undertaken upon the north-west coast of America go back as far as the year 1743.

In 1763 the Russian establishments had already extended as far as the Island of Kodiak (or Kichtak). In 1778 Cook found them at Ounalaska, and some Russian inscriptions at Kodiak. Vancouver saw the Russian

establishment in the Bay of Kinai. In fine, Captains Mirs, Portlock, La Peyrouse, unanimously attest the existence of Russian establishments in these latitudes.

If the Imperial Government had at the time published the discoveries made by the Russian navigators after Behring and Tchiricoff, viz., Chlodiloff, Serebreanicoff, Krasilnicoff, Paycoff, Poushcareff, Lazereff, Medwedeff, Solowieff, Lewasheff, Kremtsin, and others, no one could refuse to Russia the right of first discovery, nor could even any one deny her that of first occupation.

Moreover, when D. José Martinez was sent in 1789 by the Court of Madrid to form an establishment in Vancouver's Island, and to remove foreigners from thence, under the pretext that all that coast belonged to Spain, he gave not the least disturbance to the Russian Colonies and navigators. Yet the Spanish Government was not ignorant of their existence, for this very Martinez had visited them the year before. The Report which Captain Malespina made of the results of his voyage proves that the Spaniards very well knew of the Russian Colonies; and in this very Report it is seen that the Court of Madrid acknowledged that its possessions upon the coast of the Pacific Ocean ought not to extend to the north of Cape Blanc, taken from the point of Trinity, situated under 42° 59′ of north latitude.

When in 1799 the Emperor Paul I granted to the present American Company its first Charter, he gave it the exclusive possession of
2 the northwest coast of America, which belonged to Russia, from 55th degree of north latitude to Behring Straits. He permitted them to extend their discoveries to the south, and there to form establishments, provided that they did not encroach upon the territory occupied by other Powers.

This act, when made public, excited no claim on the part of other Cabinets, not even on that of Madrid, which confirms that it did not extend its pretensions to the 60th degree.

When the Government of the United States treated with Spain for the cession of a part of the north-west coast, it was able to acquire, by the Treaty of Washington, the right to all that belonged to the Spaniards north of the 42nd degree of latitude; but this Treaty says nothing positive concerning the northern boundary of this cession, because, in fact, Spain well knew that she could not say that the coast as far as the 60th degree belonged to her.

From this faithful exposition of known facts, it is easy, Sir, as appears to me, to draw the conclusion that the rights of Russia to the extent of the north-west coast, specified in the Regulation of the Russian-American Company, rest upon the three bases required by the general law of nations and immemorial usage among nations—that is, upon the title of first discovery; upon the title of first occupation; and, in the last place, upon that which results from a peaceable and uncontested possession of more than half a century—an epoch, consequently, several years anterior to that when the United States took their place among independent nations.

It is, moreover, evident that, if the right to the possession of a certain extent of the north-west coast of America, claimed by the United States, only devolves upon them in virtue of the Treaty of Washington, 1819 (and I believe it would be difficult to make good any other title), this Treaty could not confer upon the American Government any right of claim against the limits assigned to the Russian possessions upon the same coast, because Spain herself had never pretended to such a right.

The Imperial Government, in assigning for limits to the Russian possessions on the north-west coast of America, on the one side Behring Straits, and on the other the 51st degree of north latitude, has only made a moderate use of an incontestable right, since the Russian navigators, who were the first to explore that part of the American Continent in 1741, pushed their discovery as far as the 49th degree of north latitude. The 51st degree, therefore, is no more than a mean point between the Russian establishment of New Archangel, situated under the 57th degree, and the American Colony at the mouth of the Columbia, which is found under the 46th degree of the same latitude.

All these considerations united have concurred in inspiring the Imperial Government with an entire conviction that, in the last arrangements adopted in Russia relative to her possessions on the north-west coast, the legitimate right of no foreign Power has been infringed. In this conviction the Emperor, my august Sovereign, has judged that his good right, and the obligation imposed by Providence upon him to protect, with all his power, the interests of his subjects, sufficiently justified the measures last taken by His Imperial Majesty in favour of the Russian-American Company, without its being necessary to clothe them with the sanction of Treaties.

I shall be more succinct, Sir, in the exposition of the motives which determined the Imperial Government to prohibit foreign vessels from approaching the north-west coast of America belonging to Russia within the distance of at least 100 Italian miles. This measure, however severe it may at first view appear, is, after all, but a measure of prevention. It is exclusively directed against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above mentioned an illicit trade, very prejudicial to the rights reserved entirely to the Russian-American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, exciting them likewise, in every manner, to resistance and revolt against the authorities there established.

The American Government doubtless recollects that the irregular conduct of these adventurers, the majority of whom was composed of American citizens, has been the object of the most pressing remonstrances on the part of Russia to the Federal Government, from the time that Diplomatic Missions were organized between the two countries. These remonstrances, repeated at different times, remain constantly without effect, and the inconvenience to which they ought to bring a remedy continues to increase.

The Imperial Government, respecting the intentions of the American Government, has always abstained from attributing the ill-success of its remonstrances to any other motives than those which flow, if I may be allowed the expression, from the very nature of the institutions which govern the national affairs of the American Federation. But the high opinion which the Emperor has always entertained of the rectitude of the American Government cannot exempt him from the care which his sense of justice towards his own subjects imposes upon him. Pacific means not having brought any alleviation to the just grievances of the Russian-American Company, against foreign navigation in the waters which environ their establishments on the north-west coast of America, the Imperial Government saw itself under the necessity of having recourse to the means of coercion, and of measuring the rigour according to the inveterate character of the evil to which it wished to put a stop. Yet it is easy to discover, on examining closely the last Regulation of the Russian-American Company, that no spirit of hostility had

anything to do with its formation. The most minute precautions have been taken in it to prevent abuses of authority on the part of Commanders of Russian cruizers appointed for the execution of said Regulation.

3 At the same time, it has not been neglected to give all the timely publicity necessary to put those on their guard against whom the measure is aimed.

Its action, therefore, can only reach the foreign vessels which, in spite of the notification, will expose themselves to seizure by infringing upon the line marked out in the Regulation. The Government flatters itself that these cases will be very rare; if all remains as at present—not one.

I ought, in the last place, to request you to consider, Sir, that the Russian possessions in the Pacific Ocean extend on the north-west coast of America from Behring Straits to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th degree. The extent of sea, of which these possessions form the limits, comprehends all the conditions which are ordinarily attached to shut seas ("mers fermées"); and the Russian Government might consequently judge itself authorized to exercise upon this sea the rights of sovereignty, and especially that of interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking advantage of localities.

The Emperor, my august Sovereign, sets a very high value upon the maintenance of the relations of amity and good understanding which have till now subsisted between the two countries. The dispositions of His Imperial Majesty in this regard have never failed appearing at all times when an occasion has presented itself in the political relations of the United States with the European Powers; and, surely, in the midst of a general peace, Russia does not think of aiming a blow at the maritime interests of the United States—she who has constantly respected them in those difficult circumstances in which Europe has been seen to be placed in the latter times, and the influence of which the United States have been unable to avert.

I avail, &c.

(Signed) PIERRE DE POLETICA.

No. 2.

Mr. Adams to M. de Poletica.

DEPARTMENT OF STATE,
Washington, March 30, 1822.

SIR: I have had the honour of receiving your letter of the 28th ultimo, which has been submitted to the consideration of the President of the United States.

From the deduction which it contains of the grounds upon which Articles of Regulation of the Russian-American Company have now, for the first time, extended the claim of Russia on the north-west coast of America to the 51st degree of north latitude, its only foundation appears to be the existence of the small Settlement of Novo Archangelsk, situated, not on the American Continent, but upon a small island in latitude 57°; and the principle upon which you state that this claim is now advanced is that the 51st degree is *equidistant* from the Settlement of Novo Archangelsk and the establishment of the United States

at the mouth of the Columbia River; but from the same statement it appears that, in the year 1799, the limits prescribed by the Emperor Paul to the Russian-American Company were fixed at the 55th degree of latitude, and that, in assuming now latitude of 57°, a new pretension is asserted, to which no settlement made since the year 1799 has given the colour of a sanction.

This pretension is to be considered not only with reference to the question of territorial rights, but also to that prohibition to the vessels of other nations, including those of the United States, who approach within 100 Italian miles of the coast. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitute 51° north, is not less than 90 degrees of longitude, or 4,000 miles.

As little can the United States accede to the justice of the reason assigned for the prohibition above mentioned. The right of the citizens of the United States to hold commerce with aboriginal natives of the north-west coast of America, without the territorial jurisdiction of other nations, even in arms and munitions of war, is as clear and indisputable as that of navigating the seas. That right has never been exercised in a spirit unfriendly to Russia; and although general complaints have occasionally been made on the subject of this commerce by some of your predecessors, no specific ground of charge has ever been alleged by them of any transaction in it which the United States were, by the ordinary laws and usages of nations, bound either to restrain or to punish. Had any such charge been made, it would have received the most pointed attention of this Government, with the sincerest and firmest disposition to perform every act and obligation of justice to yours which could have been required.

I am commanded by the President of the United States to assure you that this disposition will continue to be entertained, together with the earnest desire that the most harmonious relations between the two countries may be preserved.

Relying upon the assurance in your note of similar dispositions reciprocally entertained by His Imperial Majesty towards the United States, the President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

I am, &c. (Signed) JOHN QUINCY ADAMS.

No. 3.

Mr. Adams to Mr. Middleton.

DEPARTMENT OF STATE,
Washington, July 22, 1823.

SIR: I have the honour of inclosing herewith copies of a note from Baron de Tuyll, the Russian Minister recently arrived, proposing, on the part of His Majesty the Emperor of Russia, that a power should be transmitted to you to enter upon a negotiation with the Ministers of

his Government, concerning the differences which have arisen from the Imperial Ukase of the 4th (16th) September, 1821, relative to the north-west coast of America, and of the answer from this Department acceding to his proposal. A full power is accordingly inclosed, and you will consider this letter as communicating to you the President's instructions for the conduct of the negotiation.

From the tenour of the Ukase, the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Asiatic coast, to the latitude of 51° north on the western coast of the American Continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions which, so far as Russian rights are concerned, are confined to certains *islands* north of the 55th degree of latitude, and have no existence on the Continent of America.

The correspondence between M. Poletica and this Department contained no discussion of the principles or of the facts upon which he attempted the justification of the Imperial Ukase. This was purposely avoided on our part, under the expectation that the Imperial Government could not fail, upon a review of the measure, to revoke it altogether. It did, however, excite much public animadversion in this country, as the Ukase itself had already done in England. I inclose herewith the "North American Review" for October 1822, No 37, which contains an article (p. 370) written by a person fully master of the subject; and for the view of it taken in England, I refer you to the 52nd number of the "Quarterly Review," the article upon Lieutenant Kotzebue's voyages. From the articles in the "North American Review" it will be seen that the rights of discovery, of occupancy, and of uncontested possession, alleged by M. Poletica, are all without foundation in fact.

It does not appear that there ever has been a permanent Russian settlement on this continent south of latitude 59°; that of New Archangel, cited by M. Poletica, in latitude 57° 30′, being upon an island. So far as prior *discovery* can constitute a foundation of right, the papers which I have referred to prove that it belongs to the United States as far as 59° north, by the transfer to them of the rights of Spain. There is, however, no part of the globe where the mere fact of discovery could be held to give weaker claims than on the north-west coast. "The great sinuosity," says Humboldt, "formed by the coast between the 55th and 60th parallels of latitude embraces discoveries made by Gali, Behring, and Tchirikoff, Quadra, Cook, La Pérouse, Malespier, and Vancouver. No European nation has yet formed an establishment upon the immense extent of cost from Cape Mendosino to the 59th degree of latitude. Beyond that limit the Russian factories commence, most of which are scattered and distant from each other, like the factories established by the European nations for the last three centuries on the coast of Africa. Most of these little Russian Colonies communicate with each other only by sea, and the new denominations of Russian America, or Russian possessions in the new continent, must not lead us to believe that the coast of Behring Bay, the Peninsula of Alaska, or the country of the Ischugatschi, have become Russian *provinces* in the same sense given to the word when speaking of the Spanish provinces

of Sonora, or New Biscay." (Humboldt's "New Spain," vol. ii, book 3, chapter 8, p. 496.)

In M. Poletica's letter of the 28th February, 1822, to me, he says that when the Emperor Paul I granted to the present American Company its first Charter in 1799, he gave it *exclusive possession* of the north-west coast of America, which belonged to Russia, from the 55th degree of north latitude, to Behring Strait.

In his letter of the 2nd April, 1822, he says that the Charter to the Russian-American Company, in 1799, was merely conceding to them a part of the sovereignty, *or rather certain exclusive privileges of commerce.*

This is the most correct view of the subject. The Emperor Paul granted to the Russian-American Company certain exclusive privileges of commerce—exclusive with reference to other Russian subjects; but Russia had never before *asserted* a right of sovereignty over any part of the North American continent; and in 1799 the people of the United States had been at least for twelve years in the constant and uninterrupted enjoyment of a profitable trade with the natives of that very coast, of which the Ukase of the Emperor Paul could not deprive them.

It was in the same year, 1799, that the Russian Settlement at Sitka was first made, and it was destroyed in 1802 by the natives of the country. There were, it seems, at the time of its destruction, three American seamen who perished with the rest, and a new Settlement at the same place was made in 1804.

In 1808, Count Romanzoff, being then Minister for Foreign Affairs and of Commerce, addressed to Mr. Harris, Consul of the United States at St. Petersburgh, a letter complaining of the traffic carried on by citizens of the United States with the native islanders of the north-west coast, *instead* of trading with the Russian possessions in America. The Count stated that the Russian Company had represented this traffic as *clandestine*, by which means the savage *islanders*, in exchange for otter-skins, had been furnished with fire-arms and powder, with which they had destroyed a Russian fort, with the loss of several lives. He expressly disclaimed, however, any disposition on the part of Russia to abridge this traffic of the citizens of the United States, but proposed a Convention by which it should be carried on *exclusively* with the agents of the Russian American Company at Kodiak, a small island near the promontory of Alaska, at least 700 miles distant from the other Settlement at Sitka.

On the 4th January, 1810, M. Daschkoff, Chargé d'Affaires and Consul-General from Russia, renewed this proposal of a Convention, and requested, as an alternative, that the United States should, by a legislative act, prohibit the trade of their citizens with the natives of the north-west coast of America, as *unlawful and irregular*, and thereby induce them to carry on the trade exclusively with the agents of the Russian-American Company. The answer of the Secretary of State, dated the 5th May, 1810, declines those proposals for reasons which were then satisfactory to the Russian Government, or to which, at least, no reply on their part was made. Copies of these papers, and of those containing the instructions to the Minister of the United States then at St. Petersburgh, and the relation of his conferences with the Chancellor of the Empire, Count Romanzoff, on this subject, are herewith inclosed. By them it will be seen that the Russian Government at that time explicitly declined the assertion of *any* boundary-line upon the north-west coast, and that the proposal of measures for confining the trade of the citizens of the United States exclusively to the Rus-

sian Settlement at Kodiak, and with the agents of the Russian-American Company, had been made by Count Romanzoff under the impression that they would be as advantageous to the interests of the United States as to those of Russia.

It is necessary now to say that this impression was erroneous. That the traffic of the citizens of the United States with the natives of the north-west coast was neither *clandestine*, nor unlawful, nor irregular. That it had been enjoyed many years before the Russian-American Company existed, and that it interfered with no lawful right or claim of Russia.

This trade has been shared also by the English, French, and Portuguese. In the prosecution of it, the English Settlement of Nootka Sound was made, which occasioned the differences between Great Britain and Spain in 1789 and 1790, ten years before the Russian-American Company was first chartered.

It was in the prosecution of this trade that the American Settlement at the mouth of the Columbia River was made in 1811, which was taken by the British during the late war, and formally restored to them on the 6th October, 1818. By the Treaty of the 22nd February, 1819, with Spain, the United States acquired all the rights of Spain north of latitude 42°; and by the IIIrd Article of the Convention between the United States and Great Britain of the 20th October, 1818, it was agreed that any country that might be claimed by either party on the north-west coast of America, westward of the Stony Mountain, should, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from that date, to the vessels, citizens, and subjects of the two Powers, without prejudice to the claims of either party or of any other State.

You are authorized to propose an Article of the same import for a term of ten years from a signature of a Joint Convention between the United States, Great Britain, and Russia.

The right of the United States from the 42nd to the 49th parallel of latitude on the Pacific Ocean we consider as unquestionable, being founded (1) on the acquisition by the Treaty of the 22nd February, 1819, of all the rights of Spain; (2) by the discovery of the Columbia River, first, from sea at its mouth, and then by land by Lewis and Clarke; and (3) by the Settlement at its mouth in 1811. This territory is to the United States of an importance which no possession in North America can be of to any European nation, not only as it is, but the continuity of their possessions from the Atlantic to the Pacific Ocean, but as it offers their inhabitants the means of establishing hereafter water communications from the one to the other.

It is not conceivable that any possession upon the Continent of North America should be of use or importance to Russia for any other purpose than that of traffic with the natives. This was, in fact, the inducement to the formation of the Russian-American Company, and to the Charter granted them by the Emperor Paul. It was the inducement to the Ukase of the Emperor Alexander. By offering free and equal access for a term of years to navigation and intercourse with the natives to Russia, within the limits to which our claims are indisputable, we concede much more than we obtain. It is not to be doubted that, long before the expiration of that time, our Settlement at the mouth of the Columbia River will become so considerable as to offer means of useful and commercial intercourse with the Russian Settlements on the islands of the north-west coast.

With regard to the territorial claim, separate from the right of traffic with the natives and from any system of colonial exclusions, we are willing to agree to the boundary-line within which the Emperor Paul had granted exclusive privileges to the Russian-American Company, that is to say, latitude 55°.

If the Russian Government apprehended serious inconvenience from the illicit traffic of foreigners with their Settlements on the north-west coast, it may be effectually guarded against by stipulations similar to those a draft of which is herewith subjoined, and to which you are authorized, on the part of the United States, to agree.

As the British Ambassador at St. Petersburgh is authorized and instructed to negotiate likewise upon this subject, it may be proper to adjust the interests and claims of the three Powers by a Joint Convention. Your full power is prepared accordingly.

Instructions conformable to these will be forwarded to Mr. Rush, at London, with authority to communicate with the British Government in relation to this interest, and to correspond with you concerning it, with a view to the maintenance of the rights of the United States.

I am, &c.

(Signed) JOHN QUINCY ADAMS.

No. 4.

Mr. Adams to Mr. Rush.

DEPARTMENT OF STATE,
Washington, July 22, 1823.

SIR: Among the subjects of negotiation with Great Britain which are pressing upon the attention of this Government is the present condition of the north-west coast of this continent. This interest is connected, in a manner becoming from day to day more important, with our territorial rights; with the whole system of our intercourse with the Indian tribes; with the boundary relations between us and the British North American dominion; with the fur trade; the fisheries in the Pacific Ocean; the commerce with the Sandwich Islands and China; with our boundary upon Mexico; and lastly, with our political standing and intercourse with the Russian Empire. . . .

By the Ukase of the Emperor Alexander of the 4th (16th) September, 1821, an exclusive territorial right on the north-west coast of America is asserted as belonging to Russia, and as extending from the northern extremity of the continent to latitude 51°, and the navigation and fishery of all other nations are interdicted by the same Ukase to the extent of 100 Italian miles from the coast.

When M. Poletica, the late Russian Minister here, was called upon to set forth the grounds of right conformable to the laws of nations which authorized the issuing of this Decree, he answered in his letters of the 28th February and 2nd April, 1822, by alleging first discovery, occupancy, and uninterrupted possession. . . .

The United States and Great Britain have both protested against the Russian Imperial Ukase of the 4th (16th) September, 1821.

At the proposal of the Russian Government a full power and instructions are now transmitted to Mr. Middleton for the adjustment, by amicable negotiation, of the conflicting claims of the parties on this subject.

We have been informed by the Baron de Tuyll that a similar authority has been given on the part of the British Government to Sir Charles Bagot. . . .

The principles settled by the Nootka Sound Convention of the 28th October, 1790, were—

1. That the rights of fishery in the South Seas, of trading with the natives of the north-west coast of America, and of making Settlements on the coast itself for the purposes of that trade, north of the actual Settlements of Spain, were common to all the European nations, and of course to the United States.

2. That so far as the actual Settlements of Spain had extended she possessed the exclusive rights, territorial and of navigation and fishery, extending to the distance of 10 miles from the coasts so actually occupied.

3. That on the coasts of South America, and the adjacent islands south of the parts already occupied by Spain, no Settlement should thereafter be made either by British or Spanish subjects, but on both sides should be retained the liberty of landing and of erecting temporary buildings for the purposes of the fishery. These rights were also, of course, enjoyed by the people of the United States.

The exclusive rights of Spain to any part of the American continents have ceased. That portion of the Convention, therefore, which recognizes the exclusive colonial right of Spain on these continents, though confirmed, as between Great Britain and Spain, by the Ist Additional Article to the Treaty of the 5th July, 1814, has been extinguished by the fact of the independence of the South American nation and of Mexico. Those independent nations will possess the rights incident to that condition, and their territories will, of course, be subject to no exclusive right of navigation in their vicinity, or of access to them by any foreign nation. . . .

7 The right of carrying on trade with the natives throughout the west coast they (the United States) cannot renounce. With the Russian Settlements at Kodiak, or at New Archangel, they may fairly claim the advantage of a free trade, having so long enjoyed it unmolested, and because it has been and would continue to be as advantageous at least to those Settlements as to them. But they will not contest the right of Russia to prohibit the traffic, as strictly confined to the Russian Settlement itself, and not extending to the original natives of the coast. . . .

I am, &c. (Signed) JOHN QUINCY ADAMS.

No. 5.

Confidential Memorial prepared by Mr. Middleton, United States Minister at St. Petersburgh, and forwarded to Mr. Adams in his Letter of December 1 (13), 1823.

It appears, then, that the position of Russia relative to her rights upon the north-west coast of America had not at all changed since 1790. The Russian-American Company had enjoyed its exclusive rights granted by the Emperor Paul. It had prospered and formed an establishment in the limits marked out by the Ukase in 1799. It had, however, never pretended to exclude other nations from a commerce shared with them for so long a time; but it saw with jealousy

its profits diminished by this rivalship. In fine, it took a violent part, and at length obtained by its solicitations the Ukase of the 4th (16th) September, 1821.

In speaking of this measure, we shall make it our business to say nothing but what appears strictly necessary to set it in its true light, convinced, as we are, that the enlightened Government from whence it emanates will listen with good-will to observations conceived with the intention of obtaining nothing but what is just in itself, and useful to all interested.

The Ukase, by its first three Articles, under the form of a grant to a private Association, presupposes the existence of exclusive territorial rights (a pretension unknown till now) on a great extent of continent, with the intervening islands and seas, and it forbids all foreign nations from approaching nearer them than 100 Italian miles to these coasts. The Ukase even goes to the shutting up of a strait which has never been till now shut up, and which is at present the principal object of discoveries interesting and useful to the sciences.

The very terms of the Ukase bear that this pretension has now been made known for the first time.

The following sections relate to the seizure of vessels, and to the proceedings before the Tribunals against those who infringe the Regulation, and might furnish remarks worthy of attention as to the right of visit against ships in times of peace, permitted even to merchant-vessels, as well as upon other points. But it is thought better to pass over these matters, as simply accessories to the principal point. Nothing is intended but first to know if the vast territory contained in the limits marked out by the Ukase is, in fact, incorporated with the Empire of Russia upon admissible principles.

All jurists are agreed upon the principle that real occupation only can give the rights to the property and to the sovereignty of an unoccupied country newly discovered.

With all the respect which we owe to the declared intention and to the determination indicated by the Ukase, it is necessary to examine the two points of fact:

1. If the country to the south and east of Behring Strait, as far as the 51st degree of north latitude, is found strictly unoccupied?

2. If there has been, latterly, a real occupation of this vast territory?

We have already seen, in the summary of the dispute between England and Spain, what was the decision of Russia upon the first point. It cannot be necessary for us to repeat it.

As to what regards the real occupation, one may be convinced, on having recourse to the Charts officially published by the Russian Government, that the only establishment on this side of the 60th degree is that which is found on the Island of Sitka, situated under 57° 30′ of latitude, and consequently more than 6 degrees from the southern limit fixed by the Ukase.

The conclusion which must necessarily result from these facts does not appear to establish that the territory in question has been legitimately incorporated with the Russian Empire.

The extension of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts, or from those of all the intervening islands, are innovations in the law of nations and measures unexampled. It must thus be imagined that this prohibition, bearing the pains of confiscation, applies to a long line of coasts, with the intermediate islands, situated in vast seas, where the naviga-

tion is subject to innumerable and unknown difficulties, and where the chief employment, which is the whale fishery, cannot be compatible with a regulated and well-determined course.

The right cannot be denied of shutting a port, a sea, or even an entire country, against foreign commerce in some particular cases.

8 But the exercise of such a right, unless in the case of a colonial system already established, or for some other special object, would be exposed to an unfavourable interpretation, as being contrary to the liberal spirit of modern times, wherein we look for the bonds of amity and of reciprocal commerce among all nations being more closely cemented.

Universal usage, which has obtained the force of law, has established for all the coasts an accessory limit of a moderate distance, which is sufficient for the security of the country and for the convenience of its inhabitants, but which lays no restraint upon the universal rights of nations, nor upon the freedom of commerce and of navigation. (See Vattel, B. I., chapter 23, section 289.)

In the case where this territorial limit would be insufficient, it is always allowable to make to it the augmentations which may be desired, by the way of diplomacy, in concluding Treaties with the nations that might be found interested in it, the only means of reconciling them to the species of constraint which must necessarily result in this case to the Maritime Powers.

No. 6.

Mr. Forsyth to Mr. Dallas.

DEPARTMENT OF STATE,
Washington, May 4, 1837.

SIR: I regret to have occasion so soon again to advert to a subject connected with the claims of the United States to the right of trading with the natives of the country, and of fishing on the north-west coast of this continent. You will perceive from a perusal of the accompanying papers that the expiration of the IVth Article of the Convention of 1824 with Russia is not unlikely to be attended with difficulties to our citizens frequenting that coast in pursuit of lawful objects. The leading features of the case, to which your attention is now invited (the particulars of which are more fully detailed in the inclosed copy of a letter dated the 24th November last, from J. C. Jones, Consul of the United States at the Sandwich Islands, to this Department, and of the protest to which it refers), are as follows:*

The American brig "Loriot," Blinn, master, sailed from the port of Oahu on the 22nd August last, bound to the north-west coast of America, for the purpose of procuring provisions, and also Indians to hunt for sea-otter on the said coast. It appears that she made the land called Forrester's Island on the 14th September following, and on the 15th anchored in the harbour of Tuckessan, latitude 54° 55′ north, and longitude 132° 30′ west; that on the 18th a Russian armed brig arrived in the harbour of Tateskey, latitude 54° 45′ north, and longitude 132° 55′ west; that on the succeeding day the "Loriot" was boarded by officers from the Russian brig, who ordered the captain of the American vessel to leave the dominions of His Majesty the Emperor of Russia;

*For these papers, see Senate Document 1, 25th Congress, 3rd Session.

that Captain Blinn then repaired on board the Russian brig, where the same orders were repeated to him by the commander; that on the 20th and 23rd days of the same month these orders were reiterated; that on the 25th the "Loriot" was boarded by two armed boats from the Russian brig, and directed to get under weigh and proceed to the harbour of Tateskey; that on the 27th the armed boats again boarded the American brig, and compelled the captain to proceed to Tateskey; that when off that place, the weather being threatening, permission was asked of the Russian commander to enter the harbor with the "Loriot," which request was denied, and Captain Blinn was again ordered to leave the waters of His Imperial Majesty; and that Captain Blinn, being prevented from procuring supplies or necessaries for his vessel, and from obtaining any Indians (for the purpose of hunting sea-otter), was finally obliged to abandon his voyage and return to the Sandwich Islands, where he arrived on the 1st November of the same year.

The harbours designated in Captain Blinn's protest by the names of Tuckessan and Tateskey are not laid down on any map to which I have referred, and the Department has no knowledge of any Russian establishments having been formed on the north-west coast or adjacent islands, in or about the latitude given for these places. It will, therefore, be proper to ascertain whether there are, in fact, Russian Settlements at the points designated; and, if so, you are authorized to make a representation of the whole subject to His Imperial Majesty's Government, complaining of the proceedings in relation to the "Loriot," which are supposed to have been unauthorizedly instigated by the Russian-American Fur Company, and stating that the President cannot but regard this act as one of a most unfriendly character, as the United States have had no official or other notice of the existence of such establishments, and have not, although an application has long since been made for them, ever been furnished by the Russian Government with the regulations, consequent on the expiration of the IVth Article of the Convention, proposed to be applied to American vessels resorting to Russian Settlements on that coast.

On the other hand, should there prove to be no Russian establishments at the places mentioned, this outrage on the "Loriot" assumes a still graver aspect. It is a violation of the right of the citizens of the United States, immemorially exercised, and secured to them as well by the law of nations as by the stipulations of the Ist Article of the Convention of 1824, to fish in those seas, and to resort to the coast,
9 for the prosecution of their lawful commerce upon points not already occupied. As such, it is the President's wish that you should remonstrate, in an earnest but respectful tone, against this groundless assumption of the Russian Fur Company, and claim from His Imperial Majesty's Government for the owners of the brig "Loriot," for their losses and for the damages they have sustained, such indemnification as may, on an investigation of the case, be found to be justly due to them.

I am, &c. (Signed) JOHN FORSYTH.

No. 7.

Mr. Dallas to Mr. Forsyth.

AMERICAN LEGATION,
St. Petersburgh, August 16, 1837.

SIR:

* * * * * * *

Among the special duties assigned to me in the instructions from the Department are those relating to the renewal of the IVth Article of the Treaty of 1824, by your despatch No. 2, and those arising out of the case of the American brig "Loriot," Richard D. Blinn, master, by your despatch No. 3. I have been anxious to address myself to the Imperial Ministry on both these topics, the mutual connection of which is apparent; but anticipating at the outset much difficulty in accomplishing any purpose opposed by the Fur Company, prudence impels me to acquire, if possible, with more accuracy than I now possess it, information as to the extent of the Russian establishments on the north-western coast, and the periods of their respective commencements. My efforts in London to ascertain the positions of the two harbours referred to by Captain Blinn, Tuckessan and Tateskey, and their real character, were abortive, the geographer on whom I principally relied writing to me, the evening before I left the British metropolis, that his searches proved unproductive. An inquiry, to be cautiously conducted, has been set on foot since my arrival here, in the hope that some of the officers of the Russian navy, or some communicative member of the Fur Company itself, may possess the facts I want, and may enable me to move with less doubt and less danger of mistake. Although from the language of Captain Blinn's protest I am led to believe that Russian establishments have been made at the places where he experienced the interference of which he complains, it would not seem politic to begin the negotiation by an admission which, though it might leave the unfriendliness of the proceeding for comment, must weaken, if not wholly destroy, his claim for redress. As soon as the inquiry instituted shall either succeed or fail, the subject will be open to Count Nesselrode, and I cannot anticipate more than one or two weeks of additional delay.

Permit me, while on this topic, to remark that I cannot help foreseeing some perplexity from the construction which will be urged by the Russian Ministry for the Treaty of the 17th April, 1824. The 1st Article asserts for both countries general and permanent rights of navigation, fishing, and trading with the natives upon points not occupied by either, north or south of the agreed parallel of latitude, subject to enumerated restrictions, among which is the IVth Article, limiting, as it would seem, the exercise of certain of these very rights to a term of ten years. Our negotiator, Mr. Middleton, as he explained in a subsequent despatch to the Department of State, contemplated no abandonment of their rights either in principle or as a compromise, in the present or future time, but on the contrary repelled a clause proposed to him expressly for that purpose, and regarded the IVth Article as enlarging, not restricting, the privileges provided for in the 1st. My conviction, however, arising from the language of the Russian precautionary record or Protocol (which Mr. Middleton rather avoided than rejected), is that Count Nesselrode will deem himself and M. Poletica to have attained by this IVth Article, though with the use of other words, the substance of the clause to which Mr. Middleton objected, and that he will con-

sider both Governments to have buried all controversy about the rights incident to the prior discovery of savage and unoccupied lands, and to have consented that, at the expiration of the ten years, the United States should be esteemed to possess in full domain the coast and islands to the south, and Russia the coast and islands to the north, of 54° 40′ north latitude.

He may ask, and with some plausibility, with what other object the IVth Article was framed? It uses no phraseology tantamount to "establishments" or "settlements" or "points already occupied;" but protects from any hindrance for ten years only the power to frequent the interior seas, gulfs, harbours, and creeks upon the coast, for the purpose of fishing and trading with the natives—a power already duly enunciated without limit of time, for both countries, by the Ist Article; and, if it was not intended mutually to yield the power in relation to the sections divided by the parallel of latitude at the expiration of the term, why disturb the operation of the 1st Article at all? A closer analysis of the negotiation of 1824 may possibly dispel these suggestions; or it will give me pleasure to find my apprehensions removed by the candour of the Vice-Chancellor; and, at all events, I shall never acquiesce, until instructed to do so by you, in a construction so opposite to the intentions of Mr. Middleton, and so conclusive as to all further claim of the United States.

* * * * * * *

I have, &c.,

(Signed) G. M. DALLAS.

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10 No. 8.

Mr. Dallas to Count Nesselrode.

AMERICAN LEGATION, *August 15 (27), 1837.*

The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honour very respectfully to invite the attention of his Excellency the Vice-Chancellor of the Empire to the following subject, specially given to him in charge as calling for an early submission to the consideration of the Imperial Government.

It will doubtless be remembered that by the perpetual Convention of the 5th (17th) April, 1824, signed by his Excellency Count Nesselrode and M. Poletica on behalf of Russia, and by Mr. Henry Middleton on behalf of the United States, it was agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the High Contracting Powers should be neither disturbed nor restrained, neither in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives; that, to prevent the rights of navigation and of fishing, exercised upon the Great Ocean, from becoming a pretext for an illicit trade, the citizens or subjects of either country should not resort, without permission, to any establishment of the other; and that there should not be formed to the north of 54° 40′ of north latitude by the citizens of the United States, nor south of that parallel by Russian subjects, any establishment upon the north-west coast of America. It was declared by the IVth Article to be understood that during a term of ten years, count-

ing from the signature of the Convention, the ships of both countries respectively might reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the said coast, for the purpose of fishing and trading with the natives.

The permanent powers to navigate, to fish, and to resort to the coasts upon unoccupied points, in order to trade with the natives, thus mutually recognized in a spirit of forecasting friendship, which removes, by explicit assurances, every possible cause of collision or jealousy, and has always characterized the relations and intercourse of the two Governments, would seem to be unequivocally distinct and precise. It is to a vague and perverted condition of things, consequent, in a great degree, upon the expiration of the temporary provision of the IVth Article, much rather than to any inimical national policy, that the Undersigned imputes the incident, so detrimental to the interest of an American citizen, and so incompatible with the rights of his country, which is now submitted to the just and candid consideration of his Excellency Count Nesselrode.

[Here follows a statement of the case of the "Loriot," substantially the same as that given above in Mr. Forsyth's instructions of the 4th May, 1837.]

The Undersigned is unwilling to make to his Excellency Count Nesselrode the remarks naturally suggested by this brief statement of facts (whose authenticity he cannot doubt), until every reasonable and just opportunity shall have been given to the Russian officers implicated to temper, if possible, their harshness by explanation. His firm confidence in the dispositions heretofore expressed and manifested towards his country precludes his supposing, for one moment, that a proceeding so unfriendly in its nature and circumstances, and so inconsistent with the rights of American citizens, immemorially exercised and secured by the laws of nations, as well as by the stipulations of the Ist Article of the Treaty of 1824, was authorized by His Imperial Majesty's Government, or can receive its sanction.

Nevertheless, it is made the duty of the Undersigned earnestly and most respectfully to remonstrate against such an unwarranted aggression by persons enjoying the character and using the means of agents in the Russian service, and to claim, as he now does, from His Imperial Majesty's Government, for the losses and damages sustained by the owners of the brig "Loriot," such indemnification as may, on an investigation of the case, be found justly their due.

In the sincere hope that an early and happy adjustment of this business may arrest its tendency to excite unkindness of feeling between the citizens and subjects of the two countries, the Undersigned avails, &c.

(Signed) G. M. DALLAS.

No. 9.

Mr. Forsyth to Mr. Dallas.

DEPARTMENT OF STATE,
Washington, November 3, 1837.

SIR: You [*sic*] despatches Nos. 6 and 7 of the 16th August and 8th September respectively have been duly received and submitted to the President, by whom I am directed to make the following observations, with reference to your remarks regarding the proper construction of the Convention of April 1824, between the United States and Russia.

The Ist Article of that instrument is only declaratory of a right which the parties to it possessed, under the law of nations, without Conventional stipulations, to wit, to navigate and fish in the ocean upon an unoccupied coast, and to resort to such coast for the purpose of trading with the natives.

11 The IInd Article prohibits the one party from resorting to points occupied by the other without permission.

The IIIrd Article prevents each party from occupying new points within certain limits.

The IVth Article grants permission to either party to frequent, for a specified term, the interior seas, gulfs, harbours, and creeks upon the whole north-west coast of America, without regard to limits or occupation, for the purpose of fishing and of trading with the natives of the country.

The question is as to the meaning and object of this last-mentioned Article. Is it to be interpreted as an agreement by either of the parties to abandon, after a specified term, the right to resort to any part of the coast which is unoccupied?

If the IVth Article is to be considered as applicable to ports of the coasts unoccupied, then it merely provides for the temporary enjoyment of a privilege which existed in perpetuity, under the law of nations, and which has been expressly declared so to exist by a previous Article of the Convention. Containing no provision, therefore, not embraced in the preceding Article, it would be useless, and of no effect. But the rule in regard to the construction of an instrument, of whatever kind, is that it shall be so construed, if possible, as that every part may stand.

If the Article be construed to include points of the coast already occupied, it then takes effect, thus far, as a temporary exception to a perpetual prohibition, and the only consequence of an expiration of the term to which it is limited would be the immediate and continued operation of the prohibition.

It is still more reasonable to understand it, however, as intended to grant permission to enter interior bays, &c., at the mouths of which there might be establishments, or the shores of which might be in part, but not wholly, occupied by such establishments, thus providing for a case which would otherwise admit of doubt, as without the IVth Article it would be questionable whether the bays, &c., described in it belong to the Ist or IInd Article.

In no sense can it be understood as implying an acknowledgment on the part of the United States of the right of Russia to the possession of the coast above the latitude of 54° 40′ north. It must be taken in connection with the other Articles of the Convention, which have, in fact, no reference whatever to the question of the right of possession of the unoccupied parts of the coast. In a spirit of compromise, and to prevent future collisions or difficulties, it was agreed that no new establishments should be formed by the respective parties to the north or south of a certain parallel of latitude, after the conclusion of the Agreement; but the question of the right of possession beyond the existing establishments, as it subsisted previously to, or at the time of, the conclusion of the Convention, was left untouched. The United States, in agreeing not to form new establishments to the north of latitude 54° 40′ north, made no acknowledgment of the right of Russia to the territory above that line. If such an admission had been made, Russia, by the same construction of the Article referred to, must have acknowledged the right of the United States to the territory south of

the designated line. But that Russia did not so understand the Article is conclusively proved by her having entered into a similar Agreement (1825) with Great Britain, and have, in fact, acknowledged in that instrument the right of possession of the same territory by Great Britain. The United States can only be considered as acknowledging the right of Russia to acquire, by actual occupation, a just claim to unoccupied lands above the latitude 54° 40′ north, and even this is mere matter of inference, as the Convention of 1824 contains nothing more than a negation of the right of the United States to occupy new points within that limit.

Admitting that this inference is just, and was in contemplation of the parties to the Convention, it cannot follow that the United States ever intended to abandon the just right acknowledged by the 1st Article to belong to them under the law of nations—to frequent any part of the unoccupied coast of North America for the purpose of fishing or trading with the natives. All that the Convention admits is an inference of the right of Russia to acquire possession by settlement north of 54° 40′ north. Until that actual possession is taken, the 1st Article of the Convention acknowledges the right of the United States to fish and trade as prior to its negotiation. This is not only the just construction, but it is the one both parties are interested in putting upon the instrument, as the benefits are equal and mutual, and the object of the Convention, to avoid converting the exercise of a common right into a dispute about exclusive privilege, is secured by it.

I am, &c.

(Signed) JOHN FORSYTH.

No. 10.

Count Nesselrode to Mr. Dallas.

[Translation.]

ST. PETERSBURGH, *February 23, 1838.*

Mr. Dallas, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, by his note of the 15th (27th) August last, has thought proper to interpose in behalf of the claims preferred by Richard Blinn, a citizen of the United States, and master of the merchant-brig "Loriot." It appears from the above-mentioned note
12 that in 1836 this vessel, having sailed for the north-west coast of America, arrived at Forrester's Island in latitude of 54° 55′ north, with the intention of employing the natives in hunting for sea-otters, and that a few days after his arrival he was ordered off by a brig of the Russian-American Company, without having been able to pursue his project. Mr. Blinn, in virtue of the stipulations of the Convention of 5th (17th) April, 1824, and especially of the 1st Article of that Convention, now prefers complaints against the conduct of the Russian brig towards him, and asks indemnification for the losses sustained in consequence by the proprietors of the "Loriot."

A claim of this nature, presented, too, by the Representative of a Power with which Russia is anxious to cultivate the most friendly relations, demanded the most serious attention on the part of the Imperial Ministry. The Russian-American Company was accordingly asked, without delay, for minute information respecting all the circumstances

connected with the above-mentioned facts, in order that it might be examined with an entire knowledge of the affair. This information has not yet reached the Imperial Ministry, as the Russian-American Company has not to this moment received any special report concerning the ordering off of the "Loriot." It appears, however, from the circumstances as stated in the very note of Mr. Dallas, as well as from a deposition made by one of the officers recently returned from those countries, that in notifying Mr. Richard Blinn to quit the shores where he was, the commander of the Russian brig did nothing more than conform with the instructions given to him at the expiration of the IVth Article of the Convention.

By examining the stipulations of that Convention, with the spirit of equity which marks the character of Mr. Dallas, he will be convinced that the Imperial Government cannot acknowledge the justice of the complaints of Mr. Blinn.

It is true, indeed, the Ist Article of the Convention of 1824, to which the proprietors of the "Loriot" appeal, secures to the citizens of the United States entire liberty of navigation in the Pacific Ocean, as well as the right of landing without disturbance upon all points on the north-west coast of America, not already occupied, and to trade with the natives. But this liberty of navigation is subject to certain conditions and restrictions, and one of these restrictions is that stipulated by the IVth Article, which has specially limited to the period of ten years the right on the part of the citizens of the United States to frequent, without disturbance, the interior seas, the gulfs, harbours, and creeks north of the latitude of 54° 40′. Now, this period had expired more than two years before the "Loriot" anchored in the harbour of Tuckessan. In 1835 the Emperor's Minister in the United States had received orders to call the attention of the Cabinet at Washington expressly to the circumstance of the expiration of this period; and, in consequence of the official note addressed on this subject by Baron de Krudener to the Secretary of State, the Government of the United States caused to be published, in the Washington newspaper, a statement that, as the period of ten years had expired on the 4th of April, 1834, "the Governor of the Russian Colonies had formally notified the commanders of American vessels in that quarter that they could no longer claim, under the Convention, the right of landing, without distinction, at all the harbours belonging to Russia on this coast."

If, then, notwithstanding so formal a warning which the Government of the United States had itself aided in conveying to the knowledge of the citizens of the Union, the owners of the "Loriot" ventured upon an expedition to coasts where they had for two years been interdicted from landing, it appears that they should attribute only to themselves the ill-success of this enterprise, and that the Imperial Government cannot admit their claims, nor acknowledge their title to indemnification. In communicating these observations to Mr. Dallas, the Undersigned flatters himself with the belief that he will admit the justice of them, and cause them to be viewed in the same light by his Government.

In this hope he prays the Envoy to accept, &c.

(Signed) NESSELRODE.

No. 11.

Mr. Dallas to Count Nesselrode.

ST. PETERSBURGH, *March 5 (17), 1838.*

The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, had the honour to receive the answer of his Excellency Count Nesselrode, Vice-Chancellor of the Empire, dated the 23rd February, 1838, to the communication which the Undersigned, conformably to the special charge of his Government, addressed to his Excellency on the 15th (27th) August, 1837, in relation to the interference of certain of His Imperial Majesty's armed forces with the merchant brig "Loriot," owned and commanded by citizens of the United States, and prosecuting a trading voyage to the north-west coast of America.

The remoteness of the regions where the incidents occurred which constitute the foundation of the reclamation on behalf of the parties injured, and the known difficulty of obtaining circumstantial details of any event in that quarter, connected with the assurance of his Excellency that the Imperial Ministry had given to the subject its seri-
13 ous attention, must have engaged the Undersigned to protracted silence, under the conviction that everything which the justice of the case required would ultimately be attained. The note, however, of his Excellency, if accurately understood, dispenses with the necessity of additional information, and, adopting the statement of facts derived by the American Government from its citizens, would seem to remove all motive for further delay. An early notice, therefore, of the grounds upon which a recognition of the claim has been declined is impelled alike by a profound respect for the source whence they emanated, and by a sense of the peculiar importance with which they bear upon the relations and interests of the two countries.

The light in which the President of the United States regarded the treatment of Captain Blinn precluded the possibility of his supposing it warranted by the public authorities of Russia. He will hear with painful surprise that the subordinate by whom that treatment was inflicted did but obey the instructions with which he had been furnished in consequence of the expiration of the IVth Article of the Convention of 1824.

It will be recollected that more than two and a-half years ago the American Secretary of State, Mr. Forsyth, in a letter of the 21st July, 1835, addressed to His Imperial Majesty's Minister then at Washington, the Baron de Krudener, expressed a wish to receive, as early as practicable, precise information of the measures His Imperial Majesty's Government had adopted or proposed to adopt in relation to the admission of American vessels into the harbours, bays, and rivers of the Russian Settlements on the north-west coast of the continent; that this request was reiterated by Mr. Wilkins, the predecessor of the Undersigned, in a communication of the 1st November, 1835, and that his Excellency Count Nesselrode, in answer thereto, referring to the spring of 1836 as the earliest period at which an exact knowledge could be obtained of the measures which the local authorities had adopted, or which it would be necessary to adopt, left no room to doubt that they would then, or as soon as digested, be made known to the American Government. This information, so desirable as a basis for any corresponding measures to which the United States would have been urged by their uniform dispositions of amity towards Russia, as well as by a provident attention to the regularity and security of their own commerce, has never

been imparted. Had the purport of the instruction, under which the "Loriot" was violently seized and driven from her voyage, been communicated, it would not have been allowed to work injury and loss to unoffending persons, without at least being first made the object of candid remonstrance, or of precautionary notice. And the President of the United States, unapprised of these Regulations, or of the particular points of the north-west coast on which Russian establishments were newly formed, could not but view the abrupt proceeding to which Captain Blinn was subjected as an act, under any aspect, of the most unfriendly character. How far this sentiment will be changed or qualified by unexpectedly finding the slight on the American flag and the armed opposition to American trade to have been ordered, and to be now sanctioned, by the Government of His Imperial Majesty, upon the principles stated, the Undersigned cannot venture to foresee.

Nor is the "informal notice" (lying before the Undersigned) published, at the repeated request of Baron de Krudener, in the "Washington Globe" on the 22nd August, 1835, to which his Excellency has referred, susceptible, in the estimation of the Undersigned, of a construction which can ascribe to the American Government, or any of its citizens, the knowledge that a voyage like the one contemplated by Captain Blinn was inconsistent with any colonial interdict or general pretension of the Imperial authorities. Far from it. That publication, while characteristic of the frank and confiding readiness with which the American Executive proceeded to execute a wish expressed by a Power whose intercourse and relations inspire no distrust, compels, as is conceived, with unfeigned deference, the opposite construction, and imports a recognition of the entire lawfulness of such a voyage. In this spirit, and in this only, was it originally framed, and has ever since, without a question, been understood by the Government and people of the United States. True, it adverts to a Notice issued by the Governor of the Russian Colonies after the expiration of the IVth Article of the Convention, to the effect that the masters of American vessels could no longer claim the right they enjoyed under that IVth Article of landing at all the landing-places, without distinction, belonging to Russia on the north-west coast; and it further proceeds to observe to all interested in the trade that, under the IInd Article of the same Convention, it is necessary for all American vessels resorting to any point where there is a Russian establishment to obtain the permission of the Governor or Commander. To the scope of phraseology of this "informal notice" it is believed Baron de Krudener never, orally or in writing, took the slightest exception. It will surely be perceived by his Excellency Count Nesselrode to contain no inhibition of trading voyages generally to the north-west coast of America, but, on the contrary, to confine its admonition expressly and precisely to "landing-places belonging to Russia," and to "any point on the coast where there is a Russian establishment." Such landing-places and such points were alone supposed to be embraced in the Notice of Governor Wrangel, and were alone designated in the publication. American voyages to them were no longer as unembarrassed as during the operation of the IVth Article of the Convention, but to all other points of that vast and wild territory the freedom of American navigation and trade remained unimpaired. It formed no part of the purpose of Captain Blinn to visit, with or without permission, any landing-place or point distinguished by Russian occu-
14 pancy or establishment; and it is therefore submitted that, even supposing him to have read the paragraph adduced, he could at least deduce from it nothing adverse to his voyage.

The decision of the Imperial Ministry is stated by his Excellency the Vice-Chancellor to result from the very circumstances set forth in the note of the Undersigned, as well as from an affidavit of an officer recently returned from the Russian Colonies, and to be founded upon the Convention of 1824. As the contents of the affidavit are not mentioned, they are presumed not to affect materially the narrative of the note, and certainly not to introduce any substantive assertion or denial adequate to give the case a totally new character, and to exact, by its own force merely, a judgment which could not be reached without it. The remarks, therefore, which the Undersigned proposes to subjoin are necessarily restricted to the admitted allegations on behalf of Captain Blinn in connection with the stipulations of the Treaty.

If, in pursuing this course, any injustice be done to the reasoning or views of the Imperial Ministry, he will, on the slightest intimation, hasten to rectify it with the frankness which he esteems indispensable to the faithful discharge of his representative duty.

Avoiding a repetition of details heretofore enumerated, as well as their aggravating features, the leading facts of reclamation are that the brig "Loriot," owned and commanded by American citizens, sailed from the Sandwich Islands on the 22nd August, 1836, bound to the north-west coast, to procure provisions and Indians for hunting sea-otter; that, having made Forrester's Island, she anchored in the harbour of Tuckessan, in latitude 54° 55′ north; that no Russian establishment existed in that harbour; that four days afterwards an armed brig of His Imperial Majesty's navy went into a neighbouring harbour, called Tateskey, in latitude 54° 45′ north; that no Russian establishment existed in this latter harbour; that she was boarded by officers from the armed brig, by whom her captain was first ordered to leave the dominions of Russia, and subsequently compelled to get under way and sail for the harbour of Tateskey; that when off the harbour of Tateskey she was, in threatening weather, refused permission to enter, and peremptorily again commanded to quit the waters of His Imperial Majesty; and, finally, that owing exclusively to this interference of armed force her voyage was abandoned, and she returned to the Sandwich Islands on the 1st November. It is this plain and brief story which the Undersigned, by instruction of his Government, has termed inconsistent with the rights of American citizens, immemorially exercised and secured by the laws of nations, as well as by the stipulations of the Ist Article of the Convention of 1824, and entitling the parties injured to such indemnification as might on an investigation be found justly their due.

The right of the citizens of the United States to navigate the Pacific Ocean, and their right to trade with the aboriginal natives of the north-west coast of America, without the jurisidiction of other nations, are rights which constituted a part of their independence as soon as they declared it. They are rights founded in the law of nations, enjoyed in common with all other independent sovereignties, and incapable of being abridged or extinguished, except with their own consent. It is unknown to the Undersigned that they have voluntarily conceded these rights, or either of them, at any time, through the agency of their Government, by Treaty or other form of obligation, in favour of any community. Yet he deduces from the communication of his Excellency, after having given it the careful consideration to which every act from such a source lays claim, as the only ground upon which the reclamation on behalf of Captain Blinn is resisted, the proposition that the United States, by the Convention of 1824, yielded to His Imperial Majesty the right to hold commerce, on the expiration of ten years, with the aborig-

inal natives on the north-west coast beyond the degree of 54° 40′ north latitude. This proposition, if established, is unquestionably fatal to the pretensions of the master and owners of the "Loriot." It bears, however, an aspect so detrimental to the interests of his countrymen, and to their attributes as an independent Power, is so inconsistent with the past policy and principles of the American Cabinets, and is withal of such minor importance to the prosperity and greatness of Russia, that the Undersigned trusts its want of solid foundation will, on further reflection, be apparent and confessed.

The avowed objects of the Convention between the United States and His Imperial Majesty were "to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord. The means of attaining these invaluable ends were embodied in its Articles. There is first a mutual and permanent agreement, declaratory of their respective rights, without disturbance or restraint, to navigate and fish in any part of the Pacific Ocean, and to resort to its coasts upon points which may not already have been occupied, in order to trade with the natives. These rights pre-existed in each, and were not fresh liberties resulting from the stipulation. To navigate, to fish, and to coast, as described, were rights of equal certainty, springing from the same source, and attached to the same quality of nationality. Their exercise, however, was subjected to certain restrictions and conditions, to the effect that the citizens and subjects of the Contracting Sovereignties should not resort to points where establishments existed without obtaining permission; that no future establishments should be formed by one party north, nor by the other party south, of 54° 40′ north latitude, but that, nevertheless, both might, for a term of ten years, without regard to whether an establishment existed or not, without obtaining permission, without any hindrance whatever, frequent the interior seas, gulfs, harbours, and creeks, to fish and trade with the natives. This short analysis leaves, on the question at issue, no room for construction.

15 The view taken by his Excellency Count Nesselrode rests upon the provision last referred to, contained in the IVth Article of the Convention. Of this it is essential to fix the true character. Does its limitation of ten years apply to the broad national right of resorting to unoccupied points of the coast? If it do not, the position taken is untenable. That it does not would seem to be a conclusion of the gravest as of the lightest scrutiny.

The renunciation of a prerogative so high and important, if designed, would not have been left to mere inference from a disjointed paragraph, but would have been distinctly expressed in immediate connection with its first statement. No motive can possibly be assigned for permitting an intended abandonment of such a right, formally declared in the Ist Article, to lurk unseen in the varied language of the IVth Article.

The power of resorting to unoccupied points of the coast existed in perpetuity by the laws of nations, and is so enunciated in the Ist Article. To declare it afterwards to exist for ten years would be to insert a clause idle and without effect, providing for the temporary enjoyment of what had been previously pronounced permanent. But the interpretation of every instrument must be such as will, if possible, give substance and utility to each of its parts. Applied to points of the coast already occupied, the IVth Article takes effect as a temporary exception to the perpetual prohibition of the IInd Article, and the only consequence of the expiration of the term to which it is limited is the revival and continued operation of that prohibition.

In employing, in the IVth Article, the descriptive words "interior seas, gulfs, harbours, and creeks," there is a departure from the comprehensive phraseology of the Ist Article, which is only to be explained by the fact that another idea was to be expressed. Nor is it difficult to understand what was really meant. The bonds of amity and perfect concord, which it was so desirable to cement and invariably maintain, would have been endangered, in peculiar localities, as to which doubts might naturally arise whether they were embraced in the Ist or the IInd Article. If, however, at their openings, or upon their commanding highlands, or on their shores, an occupied point or establishment existed, it was thought expedient to let them take character from that incident, without any nice measurement of its range or influence, at the expiration of ten years; and, accordingly, the IVth Article, avoiding too sudden a check of the actual account of trade, put a limit of time upon the liberty to frequent such places.

The Undersigned submits that in no sense can the IVth Article be understood as implying an acknowledgment on the part of the United States of the right of Russia to the possession of the coast above the latitude of 54° 40′ north. It must, of course, be taken in connection with the other Articles, and they have, in fact, no reference whatever to the question of the right of possession of the unoccupied parts. To prevent future collisions it was agreed that no new establishment should be formed by the respective parties to the north or south of the parallel mentioned; but the question of the right of possession beyond the existing establishments, as it stood previous to, or at the time of, the Convention, was left untouched.

By agreeing not to form new establishments north of latitude 54° 40′, the United States made no acknowledgment of the right of Russia to the territory above that line. If such an admission had been made, Russia, by the same construction of the Article referred to, must have equally acknowledged the right of the United States to the the territory south of the parallel. But that Russia did not so understand the Article is conclusively proved by her having entered into a similar agreement in her subsequent Treaty of 1825 with Great Britain, and having in that instrument acknowledged the right of possession of the same territory by Great Britain.

The United States can only be considered inferentially as having acknowledged the right of Russia to acquire, above the designated meridian, by actual occupation, a just claim to unoccupied lands. Until that actual occupation be taken, the Ist Article of the Convention recognizes the American right to navigate, fish, and trade, as prior to its negotiation. Such is esteemed the true construction of the Convention, the construction which both nations are interested in affixing, as the benefits are equal and mutual, and the great object is secured of removing the exercise of a common right from the danger of becoming a dispute about exclusive privileges.

At the hazard of proving tedious, the Undersigned has thus endeavoured to convey to his Excellency Count Nesselrode the views suggested by his recent communication.

The Government of the United States is ardent and uniform in its anxiety to cherish with that of Russia the most friendly relations; in the reciprocation of this sentiment the fullest confidence is felt. The citizens and subjects of the two countries, meeting only with feelings of cordiality and for purposes of mutual advantage, are rapidly reaping the fruits of a wise and beneficent international policy. Every year enlarges the sphere of their commercial intercourse, discloses the identity

of their interests, and strengthens their ties of amity. In the persuasion that the enlightened councils of His Imperial Majesty will join with the American authorities in every effort consistent with the honour and rights of their respective nations to rescue this condition of things from all danger of interruption, the Undersigned earnestly invites a reconsideration of the ground upon which the claim of the owners of the "Loriot" has been dismissed.

With a consoling hope as to the result, he begs, &c.

(Signed) G. M. DALLAS.

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16 No. 12.

Mr. Seward to Mr. Clay.

DEPARTMENT OF STATE,
Washington, February 24, 1868.

SIR: I recur on this occasion to my despatch No. 273, which related to alleged hostile demonstrations of a Russian armed vessel against a United States whaling-vessel in the Sea of Okhotsk. That communication was grounded upon mere rumour, which furnished no details, and was supported by no evidence. Prince Gortchacow, in his reply, answered substantially that the Russian Government had no information of the alleged conflict, and had given no orders or directions under which any hostile demonstrations could have been made.

At last I have received details, which, however, are very limited, and testimony which is very incomplete. This subsequent information is contained in a despatch of Morgan L. Smith, Esq., United States Consul at Honolulu, which is accompanied by a deposition made by Manuel Enos, master of the American bark "Java."* In brief, Mr. Enos' statement presents the following facts, namely, that on the 27th July, while he was cruizing for whales in Shantar Bay, and standing towards Silas Richard's bluff, a Russian armed vessel came towards him, apparently under full steam, hoisted its flag, and threw open its ports. An officer from that Russian vessel went on board of the "Java," and ordered Captain Enos immediately on board the Russian steamer. The Russian Commander demanded to know the business of the United States vessel there. Captain Enos answered that his business was whaling, whereupon the Russian Commander ordered Captain Enos to leave the bay within twenty-four hours, under a threat of taking Captain Enos with his vessel to Nicolawasky, or blowing him out of the water, as the Russian Captain should think proper. Captain Enos replied that he had whaled in those bays for the last seventeen years, and had never heard of any one being driven out, or of any purpose of excluding whalers. Captain Enos thereupon immediately left Shantar Bay.

Captain Enos further says that he afterwards learned from some of the crew of the American bark "Endeavour" that they, knowing nothing of the trouble, went into the same place (Shantar Bay) a few days afterwards, and that their boats were fired into by the same vessel before mentioned, and that they were commanded to leave the bays by threats to the same effect with those which had been made against Captain Enos. The Consul transmitting this statement says that he has been unable to procure the name of either the Russian vessel or her Com-

* For these papers, see Diplomatic Correspondence, 1868, p. 468.

mander; that he is informed by the master of the English bark "Cobang" that some Finns, subjects of the Czar, have a whaling-station there, keeping two schooners in the bay, and having their trying works on shore. If we were at liberty to assume these special statements to be true, and if we were not assured by the Russian Government that the transactions complained of occurred not only without its knowledge, but without any authority, we should in that case have reason for profound concern.

As the matter stands, with the possibility that similar armed hostile demonstrations may be made on the same quarter, there is reason to apprehend that discontent will arise, and perhaps conflict may occur between citizens of the United States and the subjects of Russia in the Sea of Okhotsk. Nothing could be more inconvenient than such difficulties at the present moment, as I am well assured nothing could be more sincerely deprecated by the Russian Government.

You will give a copy of this communication to Prince Gortchacow, and of its accompaniments, Consul Smith's despatch and Captain Enos' deposition, and invite Prince Gortchacow to give his attention to the same at his reasonable convenience.

I am, &c., (Signed) WILLIAM H. SEWARD.

No. 13.

Mr. Frelinghuysen to Mr. Hoffman.

DEPARTMENT OF STATE,
Washington, March 7, 1882.

SIR: I inclose copies of letters from the Treasury, and a copy of a letter from Messrs. Lynde and Hough, of San Francisco, to the Secretary of the Treasury, touching the Pacific coast fisheries. This latter communication states that, according to late news, "foreign vessels must receive an order from the Governor of Siberia, besides paying duties of 10 dollars per ton on all fish caught in Russian waters," which they say would be ruinous to their business. In view of the above, I have to ask that you will make immediate inquiry on this subject, and report the facts. If a brief telegram will furnish information of value to our fishermen in this regard, you can send one.

I am, &c.

(Signed) FREDK. T. FRELINGHUYSEN.

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17 [Inclosure 1 in No. 13.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT, *February 8, 1882.*

SIR: I have the honour to acknowledge the receipt of your letter of the 3rd ultimo, transmitting a copy of a despatch of the 21st November last from the Minister of the United States at Tôkiô, Japan, with its inclosure, relative to the Notice given by the Russian Consul at Yokohama in reference to the licensing of foreign vessels trading, hunting, or fishing on the Asiatic coast of Russia.

I have to inform you that this Department has issued Circular instructions to Collectors of Customs and others at every port throughout the country, to which the Russian Consul's Notice is subjoined, dated the 30th January, 1882, and I inclose herewith six copies of the Circular.

Very respectfully, (Signed) CHAS. J. FOLGER.

[Inclosure 2 in No. 13.]

CIRCULAR TO UNITED STATES COLLECTORS OF CUSTOMS.

Permit required for Hunting, Trading, and Fishing on Russian Coasts of the Okhotsk and Behring Seas.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1882.

To Collectors of Customs and others:

The subjoined Notice by the Russian Consul at Yokohama, that American vessels are not allowed, without a special permit or licence from the Governor-General of Eastern Siberia, "to carry on hunting, trading, fishing, &c., on the Russian coasts, or islands in the Okhotsk or Behring Seas, or on the north-eastern coast of Asia, or within the sea-boundary line," is published by the Department for the information of American ship-masters interested.

It will be observed that the Russian Order took effect on the 1st January, 1882.

(Signed) CHAS. J. FOLGER, *Secretary*

[Inclosure 3 in No. 13.]

Notice issued by Russian Consul at Yokohama.

At the request of the local authorities of Behring and other islands, the Undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

1. Without a special permit or licence from the Governor-General of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the north-eastern coast of Asia, or within their sea-boundary line.
2. For such permits or licences, foreign vessels should apply to Vladivostok, exclusively.
3. In the port of Petropaulovsk, though being the only port of entry in Kamtchatka, such permits or licences shall not be issued.
4. No permits or licences whatever shall be issued for hunting, fishing, or trading at or on the Commodore and Robben Islands.
5. Foreign vessels found trading, fishing, hunting, &c., in Russian waters, without a licence or permit from the Governor-General, and also those possessing a licence or permit who may infringe the existing bye-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the Government. This enactment shall be enforced henceforth, commencing with A. D. 1882.
6. The enforcement of the above will be intrusted to Russian men-of-war, and also to Russian merchant-vessels, which, for that purpose, will carry military detachments and be provided with proper instructions.

(Signed) A. PELIKAN,
His Imperial Russian Majesty's Consul.

YOKOHAMA, *November 15, 1881.*

[Inclosure 4 in No. 13.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT, *February 24, 1882.*

SIR: I have the honour to inclose herewith, for such action in the case as you may deem proper, a letter from Messrs. Lynde and Hough, of San Francisco, California, stating that they are extensively engaged in the Pacific coast cod fisheries, and that they will fit out their vessels to sail about the 1st May next in that enterprise, in which they have never been molested; but they now learn that foreign vessels must receive an order from the Governor of Siberia, besides pay a duty of 10 dollars per ton on all fish caught in Russian waters, which, if sustained, will be ruinous.

Very respectfully,

(Signed) CHAS. J. FOLGER, *Secretary.*

[Inclosure 5 in No. 13.]

Messrs. Lynde & Hough to Mr. Folger.

SAN FRANCISCO, *February 15, 1882.*

SIR: You will please pardon us for this seeming intrusion, but the matter in which we now seek your aid and kind assistance is of great import to us.

We now are and have been extensively engaged in the Pacific coast cod fisheries, and, in fact, are among the very few who fifteen years ago started in a small way, believing with energy and fair dealing we could work up an enterprise that would be a benefit to the coast. Our ideas were correct. We have been yearly sending vessels to the coast of Kamtchatka (Sea of Okhotsk) for fish. We never have been molested in Russian waters from catching cod-fish or procuring bait, which are small salmon in the rivers, or filling fresh water for the use of ship, but it appears now there is a law which has never been enforced against foreigners, the same we have recently noted, and which we have been apprised of, and the substance is that foreign vessels must receive an order from the Governor of Siberia, besides must pay a duty of 10 dollars per ton on all fish caught in Russian waters. This decree, if sustained, is ruinous to one of the best and rising industries of the coast, and as we fit our vessels to sail about the 1st May, leaves us but little chance to arrange matters this season save with your kind assistance in the matter. Our business is fishing entirely. We use no trade with natives, having nothing to do with the taking or purchasing of furs. At this time we are placed in a very bad predicament. Trusting that you can relieve us from this embarrassment, and receive an early reply on the subject, we are, &c.

(Signed) LYNDE & HOUGH.

P. S.—Our vessels fish from 10 to 25 miles from shore.

L. & H.

No. 14.

Mr. Hoffman to Mr. Frelinghuysen.—(Received April 3.)

LEGATION OF THE UNITED STATES,
St. Petersburgh, March 14, 1882.

SIR: I have the honour to acknowledge the receipt of a Circular of the Treasury Department of the 30th January last upon the subject of fishing, &c., in the Behring Sea and in the Sea of Okhotsk.

I am able to give the Department some little information upon this subject, derived nearly four years ago from Mr. Charles H. Smith, for many years a resident of Vladivostok, and at one time our Consul or Vice-Consul at that port.

A glance at the Map will show that the Kurile Islands are dotted across the entrance to the sea of Okhotsk the entire distance from Japan on the south to the southernmost cape of Kamtchatka on the north.

In the time when Russia owned the whole of these islands her Representatives in Siberia claimed that the Sea of Okhotsk was a *mare clausum*, for that Russian jurisdiction extended from island to island, and over 2 marine leagues of intermediate sea from Japan to Kamtchatka.

But about five years ago Russia ceded the southern group of these islands to Japan in return for the half of the Island of Saghalien, which belonged to that Power.

As soon as this was done it became impossible for the Siberian authorities to maintain their claim. My informant was not aware that this claim had ever been seriously made at St. Petersburgh.

The best whaling grounds are found in the bays and inlets of the Sea of Okhotsk. Into these the Russian Government does not permit foreign whalers to enter, upon the ground that the entrance to them, from

headland to headland, is less than 2 marine leagues wide. But while they permit no foreign whalers to penetrate into these bays, they avail themselves of their wealth very little. The whole privilege of whaling in those waters is a monopoly, owned by an unimportant Company, which employs two or three sailing-schooners only, the trying and other laborious work being done at their stations on shore.

19 Referring to my No. 44 of June 1878, I have the honour to add that Baron Stoeckl told me in conversation last winter that we failed to make a Fishing Treaty with Russia in 1868, principally on account of the vested interests of this Company.

Mr. C. H. Smith now resides at Great Falls, N. H., and would be glad, I am sure, to put his information at the service of the Department.

I am, &c.

(Signed) WICKHAM HOFFMAN.

No. 15.

Mr. Hoffman to Mr. Frelinghuysen.—(*Received April 13.*)

LEGATION OF THE UNITED STATES,
St. Petersburgh, March 27, 1882.

SIR: I have the honour to acknowledge the receipt of your No. 120, with its inclosures, in reference to our Pacific Ocean fisheries. Your despatch reached me yesterday, and to-day I have written to M. de Giers upon the subject, and I propose to call upon him upon his first reception-day. In the meantime, and until further information, I do not see that any new orders necessarily affecting our fishermen have been issued by the Russian Government. Messrs. Lynde and Hough have apparently given insufficient attention to the words "Russian waters." These waters are defined in the Notice published by the Imperial Vice-Consulate at Yokohama, as follows:

"Fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the north-eastern coast of Asia, or within their sea-boundary line."

If I recollect correctly the information given me by Mr. Smith upon this subject, referred to in my No. 44 of June 1878, and in my No. 207 of this month, the cod-banks lie in the open Sea of Okhotsk, many marine leagues off the south-western coast of Kamtchatka. I observe that Messrs. Lynde and Hough state that their vessels fish from 10 to 25 miles from the shore. At that distance in an open sea they cannot be said "to fish upon the coast."

I do not think that Russia claims that the Sea of Okhotsk is a *mare clausum*, over which she has exclusive jurisdiction. If she does, her claim is not a tenable one since the cession of part of the group of the Kurile Islands to Japan, if it ever were tenable at any time.

I may add that, according to the information given me four years ago, Russia opposes no objections to foreign fishermen landing in desert places on the coast of Kamtchatka, far from the few villages which are found on that coast, for the purposes of catching bait and procuring fresh water; but she does object to all communication between trading and fishing vessels and the inhabitants, alleging that these vessels sell them whiskey, upon which they get drunk, and neglect their fishing, their only means of livelihood, and then, with their wives and children, die of starvation the ensuing winter.

I am, &c. (Signed) WICKHAM HOFFMAN.

No. 16.

Mr. Hoffman to Mr. Frelinghuysen.—(Received June 6.)

LEGATION OF THE UNITED STATES,
St. Petersburgh, May 22, 1882.

SIR: Referring to your No. 120 and to my Nos. 211 and 215, I have the honour to forward to you herewith a translation of a note recently received from M. de Giers upon the subject of hunting, fishing, and trading in the Pacific waters.

I do not see that there is anything in the Regulations referred to that affects our whalers, nor our cod fisheries either, except that when they go ashore to catch small fish for bait in the streams, they expose themselves to interruption from the Russian authorities, who, finding them in territorial waters, may accuse them of having taken their fish therein.

I will endeavor to procure and forward you a translation of the Articles of the Code referred to by M. de Giers, that you may have the whole matter before you. This cannot be done, however, under several days.

I am, &c. (Signed) WICKHAM HOFFMAN.

[Inclosure in No. 16.—Translation.]

M. de Giers to Mr. Hoffman.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
May 8 (20), 1882.

SIR: Referring to the exchange of communications which has taken place between us on the subject of a Notice published by our Consul at Yokohama relative to fishing, hunting, and to trade in the Russian waters of the Pacific, and in reply to the note which you addressed to me, dated the 15th (27th) March, I am now in a position to give you the following information.

A Notice of the tenour of that annexed to your note of the 15th March was, in fact, published by our Consul at Yokohama, and our Consul-General at San Francisco is also authorized to publish it.

This measure refers only to prohibited industries and to the trade in contraband; the restrictions which it establishes extend strictly to the territorial waters of Russia only. It was required by the numerous abuses proved in late years, and which fell with all their weight on the population of our sea-shore and of our islands, whose only means of support is by fishing and hunting. These abuses inflicted also a marked injury on the interests of the Company to which the Imperial Government had conceded the monopoly of fishing and hunting ("exportation") in islands called the "Commodore" and the "Seals."

Beyond this new Regulation, of which the essential point is the obligation imposed upon captains of vessels who desire to fish and to hunt in the Russian waters of the Pacific to provide themselves at Vladivostok with the permission or licence of the Governor-General of Oriental Siberia, the right of fishing, hunting, and of trade by foreigners in our territorial waters is regulated by Article 560 and those following of Vol. XII, Part II, of the Code of Laws.

Informing you of the preceeding, I have, &c. (Signed) GIERS.

No. 17.

Mr. Hoffman to Mr. Frelinghuysen.—(Received July 3.)

LEGATION OF THE UNITED STATES,
St. Petersburgh, June 14, 1882.

SIR: Referring to my No. 228, I have the honour to forward to you herewith a translation of a note and inclosure received yesterday from M. de Giers upon the subject of fishing and hunting in the Russian Pacific waters. As far as I am at present informed, the Department has now before it the whole legislation of Russia upon the subject.

I am, &c.

(Signed) WICKHAM HOFFMAN.

[Inclosure 1 in No. 17.—Translation.]

M. de Giers to Mr. Hoffman.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
June 1 (13) 1882.

SIR: In consequence of the note which you addressed to me on the 13th (25th) May, relative to fishing and hunting in our Pacific waters, and in which you expressed the desire to have a translation of the Articles of our Code which govern the matter, I have the honour to transmit to you herewith a translation of Articles 560, &c., of the Code, Vol. XII, Part II.

Receive, &c. GIERS.

[Inclosure 2 in No. 17.—Translation.]

Articles 560, 561, 562, 565, and 571 of the Russian Code, Vol. XII, Part II.

Article 560. The maritime waters, even when they wash the shores where there is a permanent population, cannot be the subject of private possession; they are open to the use of one and all.

Art. 561. No exception will be made to this general rule, except under the form of special privileges granted for the right of fishing in certain fixed localities and during limited periods.

Art. 562. The above Regulation regarding the right of fishing and analogous occupations on the seas extends equally to all lakes which do not belong to private properties.

Art. 565. No restriction shall be established as regards the apparatus (engines) employed for fishing and for analogous occupations in the high seas, and it shall be permitted to every one to use for this purpose such apparatus as he shall judge to be best according to the circumstances of the locality.

Art. 571. Ships in quarantine are not permitted to fish. The same prohibition extends in general to all persons in those localities where ships are lying undergoing quarantine.

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21 No. 18.

Mr. Lothrop to Mr. Bayard.—(Received March 7.)

LEGATION OF THE UNITED STATES,
St. Petersburgh, February 17, 1887.

SIR: In compliance with the instructions of your despatch No. 65 of the 4th December last, I addressed a note on the 22nd of December to the Imperial Minister for Foreign Affairs, asking for the facts and grounds on which the American schooner "Henrietta" was seized and confiscated off East Cape, in Behring Straits, on the 24th August last.

On the 21st January last I received a reply, a translation of which I inclose herewith, stating that the "Henrietta" was confiscated by the Judgment of a Commission sitting on board the Imperial corvette "Kreysser," for the offence of illicit trading on the Russian coast.

On the 24th January I had a personal interview with General Vlangaly, the Assistant Minister of Foreign Affairs, in which I asked him how the Commission that sat on board the corvette was constituted. He informed me that it was composed of certain officers of the corvette, acting under the orders of the Government of Eastern Siberia, within whose general jurisdiction such matters were vested.

I also called his attention to the fact that his note to me failed to specify in what the "illicit commerce" consisted, and asked him for further information. He replied that he was not then able to give me the desired information, but said an answer in respect to the seizure and condemnation of the American schooner "Eliza" was in preparation, and would be sent to me in a few days, and he thought that perhaps I might thereby receive the information sought.

On the 1st February I received the promised communication respecting the "Eliza," a copy of which will accompany the despatch which will immediately follow the present one.

It will be seen that the seizure and condemnation of the schooners rest on the provisions of an administrative Order ("d'une disposition administrative") prohibiting, after the first of the year 1882, all trading, hunting, and fishing on the Russian Pacific coasts without special licence from the Governor-General.

It is claimed that very extensive publicity of this Regulation was given in 1881–83 through the newspapers of Yokohama, in the Russian Consulates of the Pacific, and at the American custom-houses.

Upon the receipt of this last note I at once, for greater celerity, wrote to General Vlangaly asking him for a copy of the Trading Regulation or Order.

I also asked if I was right in my understanding that the Commission was composed of the officers of the vessel that made the capture.

I supposed this last note would be answered at once, but as it has not been, I have concluded not to wait any longer before reporting the case to you.

The feature that strikes me as very peculiar in these cases is the fact that the captors are also the judges of their own acts. The Commission seems to sit at once at the place of capture, and the evidence on which it acts would seem to be that which the captors derive from their own observation on the spot. It is, perhaps, a fundamental and equitable maxim of jurisprudence that no one can be a judge of his own cause, and it will probably be worthy of consideration how far the decisions of a Tribunal so constituted can be considered as valid.

I am, &c.

(Signed) GEO. V. N. LOTHROP.

[Inclosure in No. 18.—Translation.]

General Vlangaly to Mr. Lothrop.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
January 8 (20), 1887.

MR. ENVOY: In consequence of the note addressed by you to me on the 10th (22nd) December, I hasten to ask information of the Maritime Province, by telegraph, in regard to the seizure of the "Henrietta."

I have now the honour to bring to your knowledge that, according to the information communicated to me by General Enghelm, Acting Governor of said province, the "Henrietta" was in fact seized and confiscated on the 17th (29th) August, in virtue of a decision of the Commission sitting on board of the Imperial corvette "Kreysser," for the offence of illicit trading on our coasts.

Pray accept, &c. A. VLANGALY.

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22 No. 19.

Mr. Lothrop to Mr. Bayard.—(Received March 7.)

LEGATION OF THE UNITED STATES,
St. Petersburgh, February 17, 1887.

SIR: I have the honour to transmit to you a translation of a communication received from the Imperial Foreign Office on the 1st February instant, relative to the seizure of the schooner "Eliza."

The Russian Government claims that she was seized and condemned under the provisions of an Order, or Regulation, which took effect at the beginning of 1882, and which absolutely prohibited every kind of trading, hunting, and fishing on the Russian Pacific coast without a special licence from the Governor-General.

It is not claimed that the "Eliza" was engaged in seal-fishing, but that she was found actually engaged in trading with the natives with the contraband articles of arms and strong liquors.

She was condemned by a Commission sitting on the Imperial corvette "Rasboïnik," composed of the officers thereof. In this respect the case is precisely like that of the "Henrietta," mentioned in my last preceding despatch No. 95, and of this date.

It will be noticed that Mr. Spooner, the owner of the "Eliza," in his statement of his claim, declares that the "Eliza" was "on a trading voyage, engaged in bartering with the natives, and catching walrus, and as such did not come under the Notice of the Russian Government, which was directed against the capture of seals on Copper, Robbins, and Behring Islands."

It will be seen that Mr. Spooner either refers to an Order of the Russian Government different from the one mentioned by the Imperial Foreign Office, or he understood the latter in a very different sense.

I may add that the Russian Code of Prize Law of 1869, Article 21, and now in force, limits the jurisdictional waters of Russia to 3 miles from the shore.

As stated in my previous despatch, I have asked for a copy of the Order or Regulation under which the "Henrietta" and "Eliza" were seized and condemned.

Very truly, &c. (Signed) GEO. V. N. LOTHROP.

[Inclosure in No. 19.—Translation.]

General Vlangaly to Mr. Lothrop.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
January 19 (31), 1887.

MR. ENVOY: The Chief of the General Staff of the Navy has just transmitted to me the information which I had requested from that Department in consequence of the note that you addressed to me bearing date the 5th (17th) July, 1886, in regard to the incident of the seizure of the schooner "Eliza."

This information is in substance to the effect that the "Eliza" was confiscated not for the fact of seal-hunting, but by virtue of an Administrative Regulation prohib-

iting, from the beginning of the year 1882, every kind of commercial act, of hunting, and of fishing on our coasts of the Pacific, without a special authorization from the Governor-General, and carrying with it, against those disregarding it, the penalty of the seizure of the ship as well as of the cargo.

During the years 1881–83, the widest means of publicity were employed in bringing this Regulation to the knowledge of the parties interested. It was published in the journals of Yokohama, posted up in all our Consulates of the Pacific, and communicated to the American Custom-house establishments.

The complainant cannot, therefore, plead ignorance of the prohibitory measures in question.

The crew of the "Eliza" was engaged not only hunting walrus on our coast of Kamtchatka, and in commercial transactions with the natives, but traded there with illicit articles such as arms and strong liquors.

The infringements of the printed Regulations are duly established by the open act and the confession of the captain, Austin Weston, who made no protest against the seizure of the vessel ordered under that head by the Commission sitting *ad hoc* on board the Imperial corvette "Rasboïnik."

The captain and his second officer besides acknowledge the offence charged against them of hunting and of trading in their depositions annexed to the Petition itself of Mr. Spooner and communicated to the Imperial Ministry by the Legation of the United States, under date of the 16th (28th) April.

In informing you of the foregoing circumstances, which demonstrate the entire legitimacy of the seizure of the "Eliza," I have no doubt, Mr. Envoy, that you will be led to conclude that the claim brought by the proprietor of that ship is without foundation.

And I avail myself, &c. (Signed) A. VLANGALY.

PART 3.

TREATIES BETWEEN THE UNITED STATES AND RUSSIA, AND GREAT BRITAIN AND RUSSIA: 1824, 1825, AND 1867.

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TREATIES BETWEEN THE UNITED STATES AND RUSSIA, AND GREAT BRITAIN AND RUSSIA: 1824, 1825, AND 1867.

No. 1.

CONVENTION BETWEEN THE UNITED STATES AND RUSSIA, RELATIVE TO THE PACIFIC OCEAN, AND THE NORTH-WESTERN COAST OF AMERICA.

[Signed at St. Petersburgh, April 5 (17), 1824.]

[ORIGINAL FRENCH TEXT.]

Au Nom de la Très Sainte et Indivisible Trinité.

Le Président des États-Unis d'Amérique, et Sa Majesté l'Empereur de Toutes les Russies, voulant cimenter les liens d'amitié qui les unissent, et assurer entre eux le maintien invariable d'un parfait accord, moyennant la présente Convention, ont nommé pour leurs Plénipotentiaires à cet effet, savoir:

Le Président des États-Unis d'Amérique, le Sieur Henry Middleton, Citoyen des dits États, et leur Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Impériale;

Et Sa Majesté l'Empereur de Toutes les Russies, ses aimés et féaux les Sieurs Charles Robert Comte de Nesselrode, Conseiller Privé actuel, Membre du Conseil d'État, Secrétaire d'État dirigeant le Ministère des Affaires Étrangères, Chambellan actuel, Chevalier de l'Ordre de Saint-Alexandre Newsky, Grand-Croix de l'Ordre de Saint-Wladimir de la première classe, Chevalier de celui de l'Aigle Blanc de Pologne, Grand-Croix de l'Ordre de Saint-Étienne de Hongrie, Chevalier des Ordres du Saint-Esprit et de Saint-Michel, et Grand-Croix de celui de la Légion d'Honneur de France, Chevalier Grand-Croix des Ordres de l'Aigle Noir et de l'Aigle Rouge de Prusse, de l'Annonciade de Sardaigne, de Charles III d'Espagne, de Saint-Ferdinand et du Mérite de Naples, de l'Éléphant de Danemarc, de l'Étoile Polaire de Suède, de la Couronne de Wurtembourg, des Guelphes de Hanovre, du Lion Belge, de la Fidélité de Bade, et de Saint-Constantin de Parme: et Pierre de Poletica, Conseiller d'État actuel, Chevalier de l'Ordre de Sainte-Anne de la première classe, et Grand-Croix de l'Ordre de Saint-Wladimir de la seconde;

Lesquelles, après avoir échangé leurs Pleins Pouvoirs, trouvés en bonne et due forme, ont arrêté et signé les stipulations suivantes:

ARTICLE I.

Il est convenu que dans aucune partie du Grand Océan, appelé communément Océan Pacifique ou Mer du Sud, les citoyens ou sujets respectifs des Hautes Puissances Contractantes ne seront ni troublés ni gênés, soit dans la navigation, soit dans l'exploitation, de la pêche, soit dans la faculté d'aborder aux côtes sur des points qui ne seroient pas déjà occupés, afin d'y faire le commerce avec les indigènes; sauf toutefois les restrictions et conditions déterminées par les Articles qui suivent.

ARTICLE II.

Dans la vue d'empêcher que les droits de navigation et de pêche exercé sur le Grand Océan par les citoyens et sujets des Hautes Puissances Contractantes, ne deviennent le prétexte d'un commerce illicite, il est convenu que les citoyens des États-Unis n'aborderont à aucun point où il se trouve un établissement Russe, sans la permission du Gouverneur ou Commandant; et que réciproquement les sujets Russes ne pourront aborder sans permission à aucun établissement des États-Unis sur la côte nord-ouest.

ARTICLE III.

Il est convenu en outre, que dorénavant il ne pourra être formé par les citoyens des États-Unis, ou sous l'autorité des dits États, aucun établissement sur la côte nord-ouest d'Amérique, ni dans aucune des îles adjacentes au nord du 54e degré et 40 minutes de latitude septentrionale; et que de même il n'en pourra être formé aucun par des sujets Russes, ou sous l'autorité de la Russie, au sud de la même parallèle.

ARTICLE IV.

Il est néanmoins entendu que pendant un terme de dix années, à compter de la signature de la présente Convention, les vaisseaux des deux Puissances, ou qui appartiendroient à leurs citoyens ou sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, les mers intérieures, les golfes, havres, et criques sur la côte mentionnée dans l'Article précédent, afin d'y faire la pêche et le commerce avec les naturels du pays.

ARTICLE V.

Sont toutefois exceptées de ce même commerce accordé par l'Article précédent, toutes les liqueurs spiritueuses, les armes à feu, armes blanches, poudre et munitions de guerre de toute espèce, que les deux Puissances s'engagent réciproquement à ne pas vendre, ni laisser vendre aux indigènes par leurs citoyens et sujets respectifs, ni par aucun individu qui se trouveroit sous leur autorité. Il est également stipulé que cette restriction ne pourra jamais servir de prétexte, ni être alléguée dans aucun cas, pour autoriser soit la visite ou la détention des vaisseaux, soit la saisie de la marchandise, soit, enfin, des mesures quelconques de contrainte envers les armateurs ou les équipages qui feroient ce commerce; les Hautes Puissances Contractantes s'étant réciproquement réservé de statuer sur les peines à encourir, et d'infliger les amendes encourues en cas de contravention à cet Article, par leurs citoyens ou sujets respectifs.

ARTICLE VI.

Lorsque cette Convention aura été duement ratifiée par le Président des États-Unis, de l'avis et du consentement du Sénat, d'une part, et de l'autre par Sa Majesté l'Empereur de Toutes les Russies, les ratifications en seront échangées à Washington dans le délai de dix mois de la date ci-dessous, ou plus tôt si faire se peut. En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont fait apposé les cachets de leurs armes.

Fait à Saint-Pétersbourg, le 5 (17) Avril, de l'an de Grâce 1824.

(Signé) HENRY MIDDLETON.
Le Comte CHARLES DE NESSELRODE.
PIERRE DE POLETICA.

No. 2.

CONVENTION BETWEEN GREAT BRITAIN AND RUSSIA.

[Signed at St. Petersburgh, February 16 (28), 1825.]

[ORIGINAL FRENCH TEXT.]

Au Nom de la Très Sainte et Indivisible Trinité.

Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et de l'Irlande, et Sa Majesté l'Empereur de Toutes les Russies, désirant resserrer les liens de bonne intelligence et d'amitié qui les unissent, au *moyen d'un* accord qui régleroit, d'après le principe des convenances

réciproques, divers points relatifs au commerce, à la navigation, et aux pêcheries de leurs sujets sur l'Océan Pacifique, ainsi que les limites de leurs possessions respectives sur la côte nord-ouest de l'Amérique, ont nommé des Plénipotentiaires pour conclure une Convention à cet effet, savoir:

Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et de l'Irlande, le Très Honorable Stratford Canning, Conseiller de Sa dite Majesté en son Conseil Privé, &c.;

Et Sa Majesté l'Empereur de Toutes les Russies, le Sieur Charles Robert Comte de Nesselrode, son Conseiller Privé actuel, Membre du Conseil de l'Empire, Secrétaire d'État dirigeant le Ministère des Affaires Étrangères, &c., et le Sieur Pierre de Poletica, son Conseiller d'État actuel, &c.;

Lesquels Plénipotentiaires, après s'être communiqué leurs Pleins Pouvoirs respectifs, trouvés en bonne et due forme, ont arrêté et signé les Articles suivans:

ARTICLE I.

Il est convenu que dans aucune partie du Grand Océan, appelé communément Océan Pacifique, les sujets respectifs des Hautes Puissances Contractantes ne
3 seront ni troublés, ni gênés, soit dans la navigation, soit dans l'exploitation de la pêche, soit dans la faculté d'aborder aux côtes, sur des points qui ne seroient pas déjà occupés, afin d'y faire le commerce avec les indigènes, sauf toutefois les restrictions et conditions déterminées par les Articles qui suivent.

ARTICLE II.

Dans la vûe d'empêcher que les droits de navigation et de pêche exercés sur le Grand Océan par les sujets des Hautes Parties Contractantes, ne deviennent le prétexte d'un commerce illicite, il est convenu que les sujets de Sa Majesté Britannique n'aborderont à aucun point où il se trouve un établissement Russe, sans la permission du Gouverneur ou Commandant, et que, réciproquement, les sujets Russes ne pourront aborder, sans permission, à aucun établissement Britannique sur la côte nord-ouest.

ARTICLE III.

La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du continent et les îles de l'Amérique nord-ouest, sera tracée ainsi qu'il suit:

A partir du point le plus méridional de l'île dite Prince of Wales, lequel point se trouve sous la parallèle du 54e degré 40 minutes de latitude nord, et entre le 131e et le 133e degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite Portland Channel, jusqu'au point de la terre ferme où elle atteint le 56e degré de latitude nord; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte, jusqu'au point d'intersection du 141e degré de longitude ouest (même méridien); et, finalement, du dit point d'intersection, la même ligne méridienne du 141e degré formera, dans son prolongement jusqu'à la Mer Glaciale, la limite entre les possessions Russes et Britanniques sur le continent de l'Amérique nord-ouest.

ARTICLE IV.

Il est entendu, par rapport à la ligne de démarcation déterminée dans l'Article précédent:

1. Que l'île dite Prince of Wales appartiendra toute entière à la Russie.

2. Que partout où la crête des montagnes qui s'étendent dans une direction parallèle à la côte depuis le 56e degré de latitude nord au point d'intersection du 141e degré de longitude ouest, se trouveroit à la distance de plus de 10 lieues marines de l'océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie, sera formée par une ligne parallèle aux sinuosités de la côte, et qui ne pourra jamais en être éloignée que de 10 lieues marines.

ARTICLE V.

Il est convenu en outre, que nul établissement ne sera formé par l'une des deux Parties dans les limites que les deux Articles précédens assignent aux possessions de l'autre. *En conséquence*, les sujets Britanniques ne formeront aucun établissement

soit sur la côte, soit sur la lisière de terre ferme comprise dans les limites des possessions Russes, telles qu'elles sont désignées dans les deux Articles précédens; et, de même, nul établissement ne sera formé par des sujets Russes au delà des dites limites.

ARTICLE VI.

Il est entendu que les sujets de Sa Majesté Britannique, de quelque côté qu'ils arrivent, soit de l'océan, soit de l'intérieur du continent, jouiront à perpétuité du droit de naviguer librement, et sans entrave quelconque, sur tous les fleuves et rivières qui, dans leurs cours vers la Mer Pacifique, traverseront la ligne de démarcation sur la lisière de la côte indiquée dans l'Article III de la présente Convention.

ARTICLE VII.

Il est aussi entendu que, pendant l'espace de dix ans, à dater de la signature de cette Convention, les vaisseaux des deux Puissances, ou ceux appartenans à leurs sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, toutes les mers intérieures, les golfes, havres, et criques sur la côte mentionnée dans l'Article III, afin d'y faire la pêche et le commerce avec les indigènes.

ARTICLE VIII.

Le port de Sitka, ou Novo Archangelsk, sera ouvert au commerce et aux vaisseaux des sujets Britanniques durant l'espace de dix ans, à dater de l'échange des ratifications de cette Convention. Au cas qu'une prolongation de ce terme de dix ans soit accordée à quelque autre Puissance, la même prolongation sera également accordée à la Grande-Bretagne.

4 ARTICLE IX.

La susdite liberté de commerce ne s'appliquera point au trafic des liqueurs spiritueuses, des armes à feu, des armes blanches, de la poudre à canon, ou d'autres munitions de guerre; les Hautes Parties Contractantes s'engageant réciproquement à ne laisser ni vendre, ni livrer, de quelque manière que ce puisse être, aux indigènes du pays, les articles ci-dessus mentionnés.

ARTICLE X.

Tout vaisseau Britannique ou Russe navigant sur l'Océan Pacifique, qui sera forcé par des tempêtes, ou par quelque accident, de ce réfugier dans les ports des parties respectives, aura la liberté de s'y radouber, de s'y pourvoir de tous les objets qui lui seront nécessaires, et de se remettre en mer, sans payer d'autres droits que ceux de port et de fanaux, lesquels seront pour lui les mêmes que pour les bâtimens nationaux. Si, cependant, le patron d'un tel navire se trouvoit dans la nécessité de se défaire d'une partie de ses marchandises pour subvenir à ses dépenses, il sera tenu de se conformer aux Ordonnances et aux Tarifs de l'endroit où il aura abordé.

ARTICLE XI.

Dans tous les cas de plaintes relatives à l'infraction des Articles de la présente Convention, les autorités civiles et militaires des deux Hautes Parties Contractantes, sans se permettre au préalable ni voie de fait, ni mesure de force, seront tenues de faire un rapport exact de l'affaire et de ses circonstances à leurs Cours respectives, lesquelles s'engagent à la régler à l'amiable, et d'après les principes d'une parfaite justice.

ARTICLE XII.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Londres dans l'espace de six semaines, ou plus tôt si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont apposé le cachet de leurs armes.

Fait à Saint-Pétersbourg, le 16 (28) Février, de l'an de Grace 1825.

[L. S.] STRATFORD CANNING.
[L. S.] Le Comte DE NESSELRODE.
[L. S.] PIERRE DE POLETICA.

No. 3.

TREATY BETWEEN THE UNITED STATES AND RUSSIA.

[Signed at Washington, March 30, 1867—English version.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and His Majesty the Emperor of All the Russias was concluded and signed by their respective Plenipotentiaries at the city of Washington, on the 30th day of March last, which Treaty, being in the English and French languages, is word for word as follows:

The United States of America and His Majesty the Emperor of All the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their Plenipotentiaries:

The President of the United States, William H. Seward, Secretary of State;

And His Majesty the Emperor of All the Russias, the Privy Councillor Edward de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States.

And the said Plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following Articles:

ARTICLE I.

His Majesty the Emperor of All the Russias agrees to cede to the United States, by this Convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the Convention between Russia and Great Britain, of the 16th (28th) February, 1825, and described in Articles III and IV of said Convention, in the following terms:

"Commencing from the southernmost point of the island, called Prince of Wales Island, which point lies in the parallel of 54° 40′ north latitude, and between the 131st and the 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean.

"IV. With reference to the line of demarcation laid down in the preceding Article, it is understood—

"1st. That the island called Prince of Wales Island shall belong wholly to Russia" (now, by this cession, to the United States).

"2nd. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned (that is to say, the limit to the possessions ceded by this Convention) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of 10 marine leagues therefrom."

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring Straits on the parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Islands of Krusenstern, or Ignalook, and the Island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly south-west through Behring Straits and Behring Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Choukotski, to the meridian of 172 west longitude; thence, from the intersection of that meridian, in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of 193° west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding Article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory, as may choose to worship therein. Any Government archives, papers, and documents relative to the territory and dominion aforesaid, which may be now existing there, will be left in the possession of the Agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian Government, or to such Russian officers or subjects as they may apply for.

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

ARTICLE IV.

His Majesty the Emperor of All the Russias shall appoint, with convenient dispatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V.

Immediately after the exchange of the ratifications of this Convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the Agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

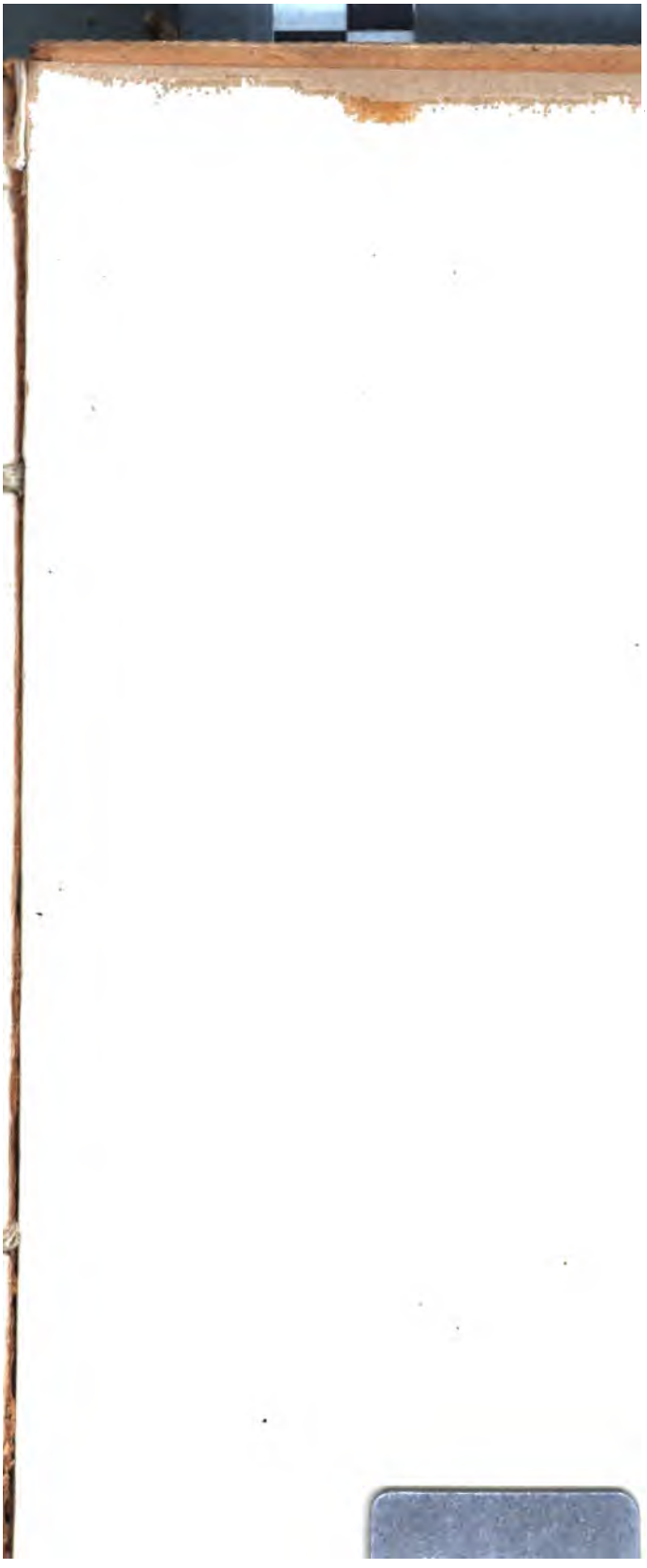
6 ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this Convention, to the Diplomatic Representative or other Agent of His Majesty the Emperor of All the Russias, duly authorized to receive the same, 7,200,000 dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unencumbered by any reservations, privileges, franchises, grants or possessions, by any associated Companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property holders; and the cession hereby made, conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII.

When this Convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by His Majesty the Emperor of All the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner, if possible.

In faith whereof, the respective Plenipotentiaries have signed this Convention, and thereto affixed the seals of their arms.

Done at Washington, the 30th day of March, in the year of our Lord 1867.

[L. S.] WILLIAM H. SEWARD.
[L. S.] EDOUARD DE STOECKL.